

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

JUNE 8, 2004

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Port Charlotte, Florida. The following members were present: Chairman Matthew D. DeBoer and Commissioners Thomas C. D'Aprile, Adam Cummings, Sara Devos and Mac V. Horton. Also in attendance were County Administrator Bruce D. Loucks, County Attorney René Francis Lee, Chief Deputy Board Services Tommy Q. White, Executive Assistant to the Board of County Commissioners Stacey Miller and Supervisor of Minutes Caroline W. Lounsbury. The meeting was called to order at **9:05 A.M.**

The **invocation** was given by Reverend Bob Carlson, Fawcett Memorial Hospital, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

Change No. 1

PUBLIC WORKS Agenda Item T-1, Set a Public Workshop should be changed to Set a Board Workshop.

**COMMISSION
OFFICE**

Agenda Item X-2, Applicants Edward Porro and Jim Wade have been deleted from the ballot and information packet.

COMMISSIONER D'APRILE MOVED FOR APPROVAL OF THE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

I. SPECIAL RECOGNITION

Employee Recognition:

Bruce D. Loucks, County Administrator, and **Commissioner Cummings** recognized the following employees for their service with the County: **Five Years** - Carol L. Iddings; **Five Years** - Joseph B.

Schubiger, Community Development; **Ten Years** - Martha L. Burton, Assistant County Attorney; **Ten Years** - Victor R. Candelaria, Charlotte County Utilities; **Ten Years** - Jenine A. Thornley, Executive Assistant to the Board of Charlotte County Commissioners; **Ten Years** - Larry A. Wilson, Parks, Recreation and Cultural Resources; **Fifteen Years** - Jose Arrazola, Public Works; **Fifteen Years** - Joann M. Dillon, Executive Assistant to the Board of Charlotte County Commissioners; **Fifteen Years** - John A. Lang, Jr., Public Works; **Fifteen Years** - Joan F. LeBeau, Community Development; **Fifteen Years** - Keith A. Prescott, Public Works and **Twenty-Five Years** - Harriet G. Franklin, Emergency Management.

Those from Fire/EMS will not be in attendance

Fifteen Years - Thomas P. Fitzgerald, Fire Lieutenant; **Fifteen Years** - Denise L. Hawkins, Public Relations Education Coordinator and **Fifteen Years** - John Oddo, Fire Lieutenant.

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE WEEK OF JUNE 13, 2004 THROUGH JUNE 19, 2004 AS "RACE UNITY WEEK IN CHARLOTTE COUNTY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Unidentified Citizen accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE WEEK OF JUNE 20, 2004 THROUGH JUNE 26, 2004 AS "MOSQUITO CONTROL AWARENESS WEEK IN CHARLOTTE COUNTY" ON MOTION BY COMMISSIONER DEVOS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. Unidentified Woman accepted the proclamation.

II. CITIZENS' INPUT - AGENDA ITEMS ONLY

There was none.

III. COMMITTEE VACANCIES

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

Buena Vista, Grassy Point, ELF Waterway Unit

- One (1) volunteer who must be a resident of Grassy Point

Tourist Development Council

- Two (2) qualified volunteers - Owner/Operator and Tourism Industry positions

IV. REPORTS RECEIVED AND FILED

No items.

V. CONSENT AGENDA

COMMISSIONER D'APRILE MOVED FOR APPROVAL OF THE FOLLOWING ITEMS SECONDED BY COMMISSIONER CUMMINGS.

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 May 19, 2004 through June 1, 2004 in the amount of \$12,239,854.

B. Minutes Division

Agenda Item B-1, Approval of Minutes

05/05/04 1:35 P.M. Transfer of Development Units

05/06/04 3:20 P.M. Budget MSBU Workshop at 3:20 P.M.

(Note: these minutes are combined with 05/05/04 Transfer of Development Units)

05/11/04 9:05 A.M. BCC Regular Meeting
05/20/04 2:00 P.M. Budget Workshop

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

Agenda Item C-1

Appointment of Richard Keen to the Marine Advisory Committee, to fill the unexpired term of Harry Clinton, as recommended by the City of Punta Gorda.

D. Administration

Agenda Item D-1

No Items.

E. County Attorney

No Items.

F. Budget Office

Agenda Items F-1

Budget Transfer #04-041 in the amount of \$75,000.00 from General Fund Contingency Reserves to provide funding for final settlement to Temron, Inc. (Budgeted Action: Funding from General Fund, Contingency Reserves.)

Agenda Item G-2

Resolution #2004-091 amending the Resolution that establishes a new fee schedule for the Building Review and Inspections Department for FY 03/04, effective July 5, 2004.

Agenda Item G-3

Resolution #2004-092 (Major Modification DRC-PD-80-60) permitting Pik'N Run #5, Inc. (Plaza) to enlarge the gasoline fueling area and the paved parking area the Pik'N Run Plaza.

Agenda Item G-4

Set the first of Two Public Hearings for Tuesday, June 22, 2004, at 10:00 A.M., or as soon thereafter as may be heard, to consider the Regional Commerce Park (RCP) Ordinance. **Commissioner Horton** stated he is under the assumption that we're looking at amending this ordinance to deal with residential and retail within this area.

H. Economic Development

Agenda Item H-1

RESOLUTION #2004-093 adopting the name "Enterprise Charlotte Airport Park" for the more than 4,300 acres encompassed by the amendment to the Charlotte County Comprehensive Plan 1997-2010 and Future Land Use Map currently known as Airport Commerce Park Overlay District. **Commissioner Horton** stated this name doesn't really define what type of park this actually is going to be. **Commissioner Horton** suggested the word "Commerce" be inserted before the word airport. **Commissioner D'Aprile** stated he likes the name chosen by the Economic Development Council.

K. Facilities Construction and Maintenance

No Items.

L. General Services

Agenda Item L-1

Bid #04-228, East Port Water Line Extension, to the lowest responsive, responsible, bidder, KDL Underground, Inc., of Sebring, FL, for the total contract amount of \$184,860.90.

Agenda Item L-2 (a)

Deletion of the property inventory items for the month of June 2004.

Agenda Item L-2 (b)

Declare property inventory items (equipment for online auction) as surplus property to the County's needs for the month of June 2004 and authorize the Purchasing Department to proceed with disposal of items via an on-line auction service with Gov-Deals, Inc.

Agenda Item L-3

Bid #04-256, Holiday Lakes Lift Station Rehabilitation, to Evans Environmental and Geological Science and Mgmt., LLC (EE&G) of Jacksonville, FL, for a total cost of \$119,900.00.

M. General Services - Real Property Services

Agenda Item M-1

Resolution #2004-094 authorizing the Chairman of the Charlotte County Board of County Commissioners to execute a County Deed releasing a portion of a twenty (20) foot wide canal maintenance easement located in Lot 24, Block 3427, Port Charlotte Subdivision, Section Seventy-Three, in Charlotte County, Florida. (Owners: Richard H. Culver and Norma S. Culver.)

Agenda Item M-2

Resolution #2004-095 authorizing the Chairman of the Charlotte County Board of County Commissioners to execute a County Deed releasing portions of two ten (10) foot wide utility and drainage easements located in Lots 17 and 18, Block 2087, Port Charlotte Subdivision, Section Thirty, in Charlotte County, Florida (Owners: David D. Fuller and Marjorie Jill Fuller.)

Agenda Item M-3

Resolution #2004-096 authorizing the Chairman of the Charlotte County Board of County Commissioners to execute a County Deed releasing portions of two six (6) foot wide utility and drainage easements located in Lots 16 and 17, Block 3409, Port Charlotte Subdivision, Section Sixty-Nine, in Charlotte County, Florida. (Owners: Randy S. Tannehill, Jr. and Amanda S. Tannehill.)

Agenda Item M-4

Resolution #2004-097 amending Resolution #2004-068 to substitute Florida Gulf Coast University Foundation, Inc., a Florida non-profit corporation, as grantee, in lieu of Florida Gulf Coast University, in connection with the private sale of 4.8 acres as County owned real property.

N. Human Resources

No Items.

P. Human Services

No Items.

Q. Information Technology

No Items.

R. Parks, Recreation & Cultural Resources

No Items.

S. Public Safety

No Items.

T. Public Works

Agenda Item T-1

Set a Public Workshop for Monday, July 12, 2004, at 10:00 A.M. or as soon thereafter in Room 229, to discuss the Countywide Maintenance Dredging Program and consider the establishment of a West County Paving District.

Agenda Item T-2

Set a Public Hearing for Tuesday, June 22, 2004, at 10:00 A.M. or as soon thereafter as may be heard, to consider approval of an Ordinance amending the purpose of the South Burnt Store Street and Drainage Unit to permit funds derived from the Unit

to be used for beautification and landscaping of the rights-of-way with the boundaries of the Unit.

Agenda Item T-3

Set a Public Hearing for Tuesday, June 22, 2004, at 10 :00 A.M., or as soon thereafter as may be heard, to consider approval of an Ordinance amending the purpose of the South Gulf Cove Street and Drainage Unit to permit funds derived from the unit to be used for the various tasks necessary to implement and construct the Community Plan.

Agenda Item T-4

Set a Public Hearing for Tuesday, June 22, 2004, at 10 :00 A.M., or as soon thereafter as may be hard, to consider approval of an Ordinance amending the purpose of the Grove City Street and Drainage Unit to permit funds derived from the Unit to be used for beautification and landscaping of the rights-of-way within the boundaries of the Unit.

V. Tourism Development

No Items.

W. Utilities

No Items.

ITEMS OF DISCUSSION

G. Community Development

Agenda Item G-1, Set a Public Hearing for Tuesday, June 22, 2004, at 10:00 A.M., or as soon thereafter as may be heard, to consider adoption of the Charlotte County Transfer of Density Units Ordinance

Commissioner Horton stated he isn't sure that all concerns will be answered with this ordinance. **Commissioner Horton** expressed concerns with SR 776 and SR 775 corridors and substandard lots. **Commissioner Horton** stated we should look at future land use planning. **COMMISSIONER HORTON MOVED FOR APPROVAL TO SET A**

PUBLIC HEARING FOR TUESDAY, JUNE 22, 2004, AT 10:00 A.M., OR AS SOON THEREAFTER AS MAY BE HEARD, TO CONSIDER ADOPTION OF THE CHARLOTTE COUNTY TRANSFER OF DENSITY UNITS ORDINANCE, SECONDED BY COMMISSIONER CUMMINGS. Commissioner Cummings expressed concerns with rural villages new towns, development units and lots that haven't been looked at and hopes that staff will address these issues. **Commissioner Devos** concurred with **Commissioner Horton's** comments and staff needs to address more commercial/industrial nodes that are needed in Charlotte County. **Commissioner Devos** recommended staff go back and look at the County's Comprehensive Plan and make some modifications to it. **Commissioner Devos** expressed concerns with staff's interpretation of the ordinance. **Commissioner Devos** stated that staff needs to understand the intent of the ordinance. **Commissioner Devos** stated she might not agree with this entire ordinance, but it is one piece of the puzzle. **Chairman DeBoer** stated this public hearing being set should be for reading only of the ordinance and not for approval. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

J. Environmental Services

Agenda Item J-1, Set a Public Hearing for Tuesday, June 22, 2004, at 10:00 A.M. or as soon thereafter as may be heard, to consider adopting an Ordinance amending the regulations regarding access and screening enclosures for dumpsters, compactors and recycling dumpsters

Commissioner Horton stated he isn't quite sure why this ordinance is being considered for amending the regulations and questioned as to what is the problem. **Commissioner Horton** stated he has a list of complaints on the turtle ordinance and questioned why isn't staff bringing this ordinance back to the Board for discussion. **COMMISSIONER HORTON MOVED FOR APPROVAL TO SET A PUBLIC HEARING FOR TUESDAY, JUNE 22, 2004, AT 10:00 A.M. OR AS SOON THEREAFTER AS MAY BE HEARD, TO CONSIDER ADOPTING AN ORDINANCE AMENDING THE REGULATIONS REGARDING ACCESS AND SCREENING ENCLOSURES FOR DUMPSTERS, COMPACTORS AND RECYCLING DUMPSTERS, SECONDED BY COMMISSIONER DEVOS.** **Commissioner Cummings** stated it is his impression that **Commissioner Horton** doesn't want to discuss this issue. **Commissioner Horton** stated that wasn't the case. **Commissioner Devos** stated she would like the turtle ordinance to come back to the Board for further

discussion. **Commissioner D'Aprile** stated there must be some reasons for bringing this ordinance back and questioned why is it taking so long for the turtle ordinance to come back to the Board. **Commissioner D'Aprile** stated he needs answers from staff in order to discuss this issue. **Commissioner Cummings** stated the Board needs responses back from staff. **Commissioner Cummings** questioned if the Board is over due for a goal setting meeting. **Commissioner Cummings** stated the Board might need to refocus on their priorities. **Chairman DeBoer** concurred with **Commissioner Cummings'** statements and reminded the Board that they didn't need to wait a year to conduct another goal setting meeting and the Board shouldn't feel this type of frustration. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

L. General Services

Agenda Item L-4, Change Order #7 to Contract #03-484, North County Paving Program, with AJAX, Inc., of Nokomis, FL, in the amount of \$459,309.28 with a revised total contract amount of \$4,091,718.88

Chairman DeBoer expressed concern with the tardiness with payments from the City of North Port. **Chairman DeBoer** questioned if the City of North Port has agreed to the price change. Thomas E. O'Kane, Public Works Director stated the City of North Port would split the costs fifty-fifty with the County. **Chairman DeBoer** stated in order to receive monies from the City of North Port in a timely fashion we need to have a firm commitment from the City of North Port Council. Mr. O'Kane stated he is in receipt of a letter from the Public Works Director for the City of North Port agreeing to the cost. **Chairman DeBoer** stated if the City of North Port doesn't agree to split the costs, then we don't have to put the sizes of pipe being requested by the City. **Commissioner Devos** stated the work will still need to be done because there is a storm water problem. **Chairman DeBoer** reminded the Board that the County does have an interlocal agreement with the City of North Port. **Chairman DeBoer** stated we can approve this item contingent upon going to the City of North Port Council and getting a firm commitment from them that they will split the costs and pay the County in a timely manner. **Commissioner Cummings** questioned if the Board were to delay this item would this cause the cost to escalate. Mr. O'Kane answered affirmatively. **Chairman DeBoer**

stated we must take this item to their political body. COMMISSIONER HORTON MOVED FOR APPROVAL OF CHANGE ORDER #7 TO CONTRACT #03-484, NORTH COUNTY PAVING PROGRAM, WITH AJAX, INC., OF NOKOMIS, FL, IN THE AMOUNT OF \$459,309.28 WITH A REVISED TOTAL CONTRACT AMOUNT OF \$4,091,718.88 WITH DIRECTION THAT THE CHAIRMAN AND THE COUNTY ADMINISTRATOR GO TO THE CITY OF NORTH PORT COUNCIL TO APPROACH THEM ON THE COSTS, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

RECESS: 10:00 A.M. - 10:10 A.M.

VII. PUBLIC HEARING AGENDA

Y. 10:00 A.M.

Agenda Item Y-1, South Gulf Cove Phase V Water and Wastewater MSBU's - Consider and adopt the Final Assessment Resolutions for the South Gulf Cove Phase V Water and Wastewater MSBU's (Proof of Publication was in order.)

Terri Kesner, Charlotte County Utilities Financial Manager stated this public hearing is for adopting the Final Assessment resolutions for the South Gulf Cove Phase V water and wastewater MSBU's. THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE ADOPTION OF RESOLUTION #2004-098 (WATER) AND RESOLUTION #2004-099 (WASTEWATER), SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

Y. 10:00 A.M.

Agenda Item Y-2, Disbursement of Surcharge Revenue from Court Matters - Consider and adopt an Ordinance to allow the County to collect surcharges in court matters, revenue to be used to support local programs, including legal aid, law libraries, juvenile assessment centers, teen court programs and other juvenile alternative programs (Proof of Publication was in order.)

Ann Navan, Budget Officer 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 HORTON AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE ENACTMENT OF ORDINANCE #2004-036, SECONDED BY COMMISSIONER D'APRILE. Chairman DeBoer stated these are very important fees and consideration of fee waiving needs to be done very carefully. CALL ON THE MOTION: DECLARED UNANIMOUS.

VI. REGULAR AGENDA

X. Regular Business

Economic Development

Agenda Item X-1, Approve the Resolution adopting the findings and recommendations of the Enterprise Charlotte's County Processes Task Force report approved at the May 26, 2004, meeting of Enterprise Charlotte

COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE ADOPTION OF RESOLUTION #2004-100, SECONDED BY COMMISSIONER HORTON. Commissioner Horton stated residential and retail development is a big concern in this area. (Board discussion ensued regarding "grand fathering" certain residential and retail establishments.) CALL ON THE MOTION: DECLARED UNANIMOUS.

Commission Office

Agenda Item X-2, (a) Reappoint the Little Gasparilla Island Steering Committee members as five members of the Little Gasparilla Island Advisory Committee

COMMISSIONER HORTON MOVED FOR APPROVAL OF THE REAPPOINTMENT OF THE LITTLE GASPARILLA ISLAND STEERING COMMITTEE MEMBERS AS FIVE MEMBERS OF THE LITTLE GASPARILLA ISLAND ADVISORY COMMITTEE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

Agenda Item X-2, (b) Select one-at-large member to the Little Gasparilla Island Advisory Committee

Chairman DeBoer asked each of the Board Members to complete the ballot and pass it down to Mr. Loucks. Chairman DeBoer announced the one-at-large member chosen is Rande Ridenour. COMMISSIONER HORTON MOVED FOR APPROVAL OF RANDE RIDENOUR AS THE

ONE-AT-LARGE MEMBER TO THE LITTLE GASPARILLA ISLAND ADVISORY COMMITTEE.

Agenda Item X-2, (c) Select one member to represent Little Gasparilla Property Owners' Association, Inc., on the Little Gasparilla Island Advisory Committee

COMMISSIONER CUMMINGS MOVED FOR APPROVAL TO SELECT ONE MEMBER TO REPRESENT LITTLE GASPARILLA PROPERTY OWNERS' ASSOCIATION, INC., ON THE LITTLE GASPARILLA ISLAND ADVISORY COMMITTEE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

VIII. CITIZENS' INPUT - ANY SUBJECT

Grace Amodeo stated there are many citizens that have their own interpretation, i.e. septic "ATU's" and requested the Board conduct a workshop on this subject. Mrs. Amodeo questioned if the County offices would be closed this Friday due to the death of President Reagan. **Chairman DeBoer** informed her that all County offices would be open.

Robert "Fagrass" member of the Board of Directors for Section 20, Deep Creek Association stated this area consists of approximately six miles of residential single-family homes. Mr. Fagrass questioned if the Board knew that the senior apartments to be constructed in Deep Creek, which they approved has now been changed to low income apartments. Mr. Fagrass stated he was under the impression that the Board of Charlotte County Commissioners was to protect the citizens of Charlotte County. Mr. Fagrass stated he's been informed that the valuation of homes in the Deep Creek area will decrease approximately 25% to 30%. Mr. Fagrass stated he doesn't know how these apartments are going to be constructed in a scrub jay area. Mr. Fagrass stated he would like to meet with all the Board Members to discuss this situation.

Ed Holly, Vice President of Section 20 of the Deep Creek Association stated this building will consist of three stories, 28 parking spaces and the water drainage will be running on private property owned by homeowners in the Deep Creek area. Mr. Holly stated these apartments would have a negative impact on the Deep Creek residents. Mr. Holly requested the Board stop this invasion on the Deep Creek community.

Lee Dunn, President of Section 20 of the Deep Creek Association stated there are 5,600 homes in the Deep Creek area with estimated values between \$170,000 to \$380,000 and this project will decrease the values of their properties.

BOARD RESPONSES TO CITIZENS' INPUT

Chairman DeBoer stated that the apartment complex being discussed in Deep Creek was changed by the Board of Charlotte County Commissioners from elderly to multi-family. **Commissioner Devos** recommended staff contact the Affordable Housing Department to inquire as to the exact type of housing that will be constructed in the Deep Creek area. **Commissioner D'Aprile** stated he has been meeting with the County Administrator and has been extremely involved in the Deep Creek apartment issue, has concerns that the value of properties will decrease with low-income housing. **Commissioner D'Aprile** stated he isn't sure what the Board can do in this situation, but did reiterate that the Deep Creek community is very upset. **Commissioner Devos** commented on the Murdock Circle Apartments where many people had the misconception these were going to be low income housing, but it wasn't and if this is what is going to be built in the Deep Creek area then all fears would be eliminated for the residents living there. **Commissioner Devos** stated there are many questions that staff needs to provide answers to the Board. **Commissioner D'Aprile** stated there are many concerns of the residents in this area if this project isn't what it was meant to be and clarification is definitely needed. **Chairman DeBoer** stated the Board Members definitely should review the process. **Chairman DeBoer** stated when SHIP monies come to us, that is the time when we can exercise our influence and questioned as to how this situation got out of their hands. **Commissioner Devos** stated the Affordable Housing Department should establish what the needs are for our community. **Commissioner Horton** stated there is a new director on board for the Affordable Housing Department. **Commissioner Horton** stated the apartment complex in Rotonda Lakes was to be affordable housing, but became a senior citizen complex because nothing was dealt with how the impact of the school system would be impacted with affordable housing. **Commissioner Horton** also stated that property values in the Rotonda area haven't gone down because of the senior citizens complex.

AA. County Administrator

Bruce D. Loucks, County Administrator commented on Solomon Road and staff that have been working with the property owners to create an assessment (MSBU). Mr. Loucks stated the other part of this is since there is scrub scrub jay habitat involved and if there are assessments levied on property that is in scrub jay, then there is no incentive of being that strong for a property owner to pay the assessment when they're unable to build on their property.

BB. County Attorney

Reneé Francis Lee, County Attorney stated she has three items, which she needs Board direction on, and two informational issues. Attorney Lee commented on the following items: "Several months ago you asked me to approach the Department of Juvenile Justice (DJJ) to see if they would release the County from the lease agreement that we have with them. As you probably recall, we lease several acres of property near the jail to DJJ for a facility. At the time of the lease, the Board was under the impression that they were going to put in a low-risk facility there and as it turned out they were going to put a 300 bed high-risk facility in that location which wasn't favored in the community. I understand that they have paid approximately \$229,000 to the City of Punta Gorda for impact fees; there are some site-specific architectural and utility planning costs that they have also paid totaling \$1.5 million. Before I approach the City to see if we can get any relief or refund on behalf of DJJ for the impact fees, I wanted some direction from the Board as to how far I should take this, because now it's going to another local governmental entity to ask them for a refund of money. I didn't know if the Board was interested in possibly refunding the money or contributing anything else to get out of the lease agreement with DJJ. **Chairman DeBoer** questioned as to why wouldn't the City just give back the impact fees if the impact doesn't exist. Attorney Lee stated that she hasn't asked the City for a refund as she didn't know if the Board wanted her to go that far, but will do so if that's the Board's desire. **Chairman DeBoer** stated that the State has changed their tactics and now will be charging the County for detention of juveniles, maybe we should be filing suit for the credit of the value of the property that we had

given them. **Commissioner Cummings** stated that originally this was his objection to the proposal right at the beginning. **Commissioner Cummings** stated our taxpayers paid the State to provide this service and maintenance. **Commissioner Cummings** questioned if there are any monies left from the \$1.5 million. **Commissioner D'Aprile** stated he is very aggravated with the entire situation. **Commissioner D'Aprile** stated at the beginning this facility was to be for low-crime individuals and then the State changed it in midstream. **Commissioner Cummings** requested Attorney Lee to pursue the issue of a refund from the City of Punta Gorda. **Commissioner D'Aprile** stated we should fight this issue. Attorney Lee stated she will ask the City of Punta Gorda for a refund and will continue to try and get the County out of this loop. Attorney Lee stated she received a very strange phone call from a David Jackson with SWFMD regarding another legacy from General Development Corporation. Attorney Lee stated Mr. Jackson is asking Charlotte County to take over operations and maintenance for four projects in Charlotte County. Attorney Lee stated she believes these are storm water projects, surface water management systems that were left here by General Development Corporation, which is not bankrupt. Attorney Lee stated because the County owns the roads, swales and these systems are somewhere near our public roads and swales is the reason for this request from SWFMD. Attorney Lee questioned Mr. Jackson as to whether or not there are maintenance monies that would be transferred to Charlotte County and his response that we would do it because it's in the public good. **Commissioner Devos** questioned as why now do we have to maintain these systems now and who was maintaining them. Attorney Lee stated there has been no maintenance, but we own and control the roads. **Commissioner Cummings** stated the condos should maintain their systems. Dennis Murphy, GIS/MSBU Manager commented on the Peachland Place parcel, stated this parcel has a lake, which was dedicated to Charlotte County when Peachland Place was originally platted. Mr. Murphy stated this parcel is actually in the ownership of Charlotte/Sarasota Holdings, Inc. Mr. Murphy stated the County has actually done some work on the property, i.e. installed sand filtration system in the storm water sections. Mr. Murphy stated the question remains as to whether or not the County has accepted this parcel for maintenance. **Commissioner Horton** requested the County Attorney see what actually is involved with maintaining these parcels, i.e. costs and what needs to be done. Attorney Lee stated the

next direction she needs from the Board is with regard to the boat ramp and the voluntary contribution from Centex in the amount of \$500,000.00 so that we can expedite their plat review and possible approval and a \$200,000.00 advance payment towards their park impact fees. Attorney Lee stated Centex is looking at pipelining the \$500,000.00 into a project and they want it spent with the 18 months of the contract being executed. Attorney Lee stated that she must have agreement from the Board if the \$500,000.00 is acceptable to the Board and whether we had a project to identify for these monies. Mr. Loucks stated staff has looked at the projects and the quickest project we would be able to spend these monies on would be the expansion of the El Jobean Boat Ramp. Mr. Loucks stated we could then allocate the sales tax funds for the Cattedock project. **Commissioner Devos** stated she likes that idea. Laura Kleiss Hoeft, Parks & Recreation Director stated that by resolution we have it designated as boat ramps, not specific projects. **Commissioner Horton** stated if the \$500,000.00 could be spent on the El Jobean Ramp that would be good. **COMMISSIONER CUMMINGS MOVED FOR APPROVAL TO DIRECT THE COUNTY ATTORNEY TO ACCEPT CENTEX OFFER AND APPLY IT TO PROJECT FIRST ON THE BOOKS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.** Attorney Lee stated that yesterday she mentioned to the Board about a lawsuit that the Florida Association of Counties is considering, along with individual counties, to file against the Department of Juvenile Justice for the unfunded mandates that they are sending down. Attorney Lee stated she would have an update for the Board regarding the possibility of the lawsuit. **Commissioner Cummings** expressed an interest in joining the lawsuit. Attorney Lee commented on the Image Award given to the County from the Florida Public Relations for our education website regarding phosphates.

CC. Commissioners' Comments

Commissioner Cummings commented on the HCP, stating he had seen a proposal that would look at basically if we took the County-wide HCP that we intend on doing, continue the negotiations with the Feds to try and determine what conditions they would be willing to allow private individuals to develop their land, it would in essence be a County-wide HCP, but instead of going out, doing it all at once, it would strictly be voluntary. **Commissioner Cummings** stated the difference is the areas that

where we would allow for development we would make it available to those people. **Commissioner Cummings** stated user fees would fund this. **Commissioner Cummings** stated he is spending a lot of time at meetings being held with regard to the purchase of Babcock Ranch. **Commissioner Cummings** stated negotiations are going slow. **Commissioner Cummings** suggested staff redefine the language for villages in Murdock Village. **Commissioner Cummings** also stated there is another alternative if we removed the potential for the TDU's and that we're not going to transfer them outside of the urban service area, but he isn't sure if this is a good idea. **Commissioner Cummings** stated that yesterday at pre-agenda his impression was that our staff was waiting on the Environmental Lands Acquisition Advisory Committee (ELAAC) to present a proposal for the informational campaign part of the referendum. **Commissioner Cummings** stated he thought this was probably a mistake because the people on ELAAC are environmental types, they know what lands are appropriate for acquisition, but they're not marketing people and they're probably the wrong type of people to ask for a marketing plan. **Commissioner Cummings** stated he is of the opinion that it would be better for our staff to put together an informational effort and bring that proposal to ELAAC. **Commissioner Horton** stated he just came back from a five-day cruise with many realtors, which was very enlightening. **Commissioner Horton** stated he met with a number of Board of Realtors out in Englewood and the message he came away with if the County is going to do something to help alleviate the scrub jay situation and it's reasonable (like less than \$5,000) then do it, but if you're not, then tell us so we can deal with the Federal Government. **Commissioner Horton** complimented **Commissioner Cummings** on the excellent job he's doing with the negotiations on Babcock Ranch. **Commissioner Horton** concurred with **Commissioner Cummings'** remarks regarding ELAAC. **Commissioner Horton** commented on longshoremen's workmen's compensation insurance and stated Charlotte County doesn't insist on an individual doing some private work for a homeowner to carry the same type of insurance. **Commissioner Horton** questioned the Board if this issue needs to be addressed or not. **Commissioner Horton** stated he has referred to a list of various items to Jim Evetts, Chief Building Official dealing with handyman's licenses. **Commissioner Horton** informed the Board that the Bass property is still for sale, the price has increased from \$3.2 million to \$4.7 million, the Lemon Bay

Conservatory would like to buy it, but they don't have \$4.7 million and desires for the County to purchase this property. **Commissioner Horton** commented on Coral Creek where people are using canoes and kayaks are using this water and boaters have to plane up on full tilt to get up the creek and the possibility exists of running over some individual in a canoe or kayaks. **Commissioner Horton** stated Boca Grande residents living in Lee and Charlotte Counties are putting together a community plan; the islanders have really some good ideas for the island, but would like for Charlotte County to participate with this community plan and are requesting \$20,000.00. **Commissioner Horton** stated an individual can still build a 600 square foot house in Gulf Cove right next to a \$500,000.00 house and this is complete insanity. **Commissioner Horton** stated that maybe the County needs to have a Countywide Restriction. **Commissioner Cummings** gave a brief history of the "Jones Act - 1920's" which the longshoremen's compensation falls under. Mr. Loucks stated he spoke to an individual that owns a seawall business and contractors need to show their licenses and questioned if the Board wants the County to require proof of licenses or let the State handle it. **Commissioner D'Aprile** commented on the Tom Adams Bridge/boat ramp, stated he has had meetings with the Fire Chief in Englewood and was informed that there is no need for this boat ramp for emergency purposes. **Commissioner D'Aprile** stated the boat ramp is now a dead issue. **Commissioner Devos** agreed that there is a need for an informational packet to support the referendum. **Commissioner Devos** stated she has spoken to an individual that owns a seawall business and was informed that the State should assume the responsibility for licenses. **Commissioner Devos** requested staff bring back some recommendations to the Board regarding handyman's license, as the requirements can be too stringent. **Commissioner Devos** stated the first meeting for the Children's Services Council would be held tomorrow at noon in the Justice Center. **Commissioner Devos** stated there is no budget or staff for the Children's Services Council at this time and Vickie Carpenter and Stacey Miller will be our staff people for now. **Chairman DeBoer** stated that the Sheriff is selling the department's helicopter on E-Bay for \$90,000.00 and this money should come back before this Board to use for offsetting next year's capital. **Commissioner Devos** has to be excused from the meeting.) (**Commissioner Devos was not present for this portion of the meeting.**) **Chairman DeBoer** announced that **Commissioner**

Cummings would not be present for the afternoon meeting because he'll be attending a meeting regarding the purchase of Babcock Ranch.

RECESS: 11:50 A.M. - 1:01 P.M.

(Commissioners Cummings and Devos were not present for the remainder of the meeting. Executive Assistant Stacey Miller was not present and Deputy Clerk Karen S. Mitchell replaced Supervisor of Minutes Caroline W. Lounsbury for this portion of the meeting.)

VIII. PRESENTATION AGENDA

Z. 1:00 P.M.

Agenda Item Z-1, Final Report of 2004 Legislative Session presented by Bitner & Associates

David I. Bitner, Bitner & Associates, Government Consultants, said Representatives Harrington and Paul and Senator Carlton worked very hard on the Board's agenda. Mr. Bitner thanked Assistant to the County Administrator Kelly Shoemaker, said she did a wonderful job working with everyone and coordinating things for south Florida, she was an absolute joy to work with and she was very capable and very professional. Cari L. Roth, Esq. with the law firm of Bryant, Miller & Olive P.A., agreed Mrs. Shoemaker was a great liaison. Attorney Roth reviewed the one page summary which detailed the following: Commission priorities: One Time Correction of City/County Boundaries; Homestead Property/Transfer of Existing Assessed Value if Home taken by Government Action (i.e., Murdock Village); Water Pricing and Privatization; State Library Grant; Local Government Takeover of Privately-Owned Utilities - Immunization from fines/enforcement; Protection of the Peace River Watershed; and South West Florida Legislative Consortium Priorities: Indexing of Gas Tax, and Platted Lands. (**Attorney René Francis Lee was not present for the remainder of the meeting.**) Attorney Roth reviewed the 'Report To Charlotte County Legislative Wrap-Up 2004' which detailed the following: Legislation Which Passed: I. Growth Management/Land Development; II. Water/Natural Resources; III. Court System and Constitutional Amendment Reform; IV. Transportation; V. Health & Human Services; VI.

Local Government Administration; VII. Public Records; and VIII. Local Bills. Attorney Roth stated the 'Report To Charlotte County Legislative Wrap-Up 2004' also included information under the category Legislation Which Failed. Steven M. Seibert with the Seibert Law Firm, reviewed the last section of the 'Report To Charlotte County Legislative Wrap-Up 2004' which detailed the following: 2005 Legislative Forecast: Water, Water, Water!; Long Range Budget Planning; Growth Management; and Constitutional Amendment By Initiative Reform. (**Discussion ensued regarding the impact of Manatee Protection [SB 540] on the issuance of dock permits, the need for better communication among the various Water Management Districts, and the need for assistance in getting an Economic Impact Statement (EIS) related to phosphate mining.**) Mr. Bitner stated it had been an honor to represent Charlotte County and thanked the Board and staff for their professional leadership. **Chairman DeBoer** thanked Mr. Bitner and Attorneys Roth and Seibert, said with their representation Charlotte County had great success this legislative year and the Board looks forward to working with them next year.

RECESS: 1:58 P.M. - 2:08 P.M.

(Assistant County Attorney Louis Whitehead and Executive Assistant Joann Dillon were present for the remainder of the meeting and Deputy Clerk Diane J. Nice replaced Deputy Clerk Karen S. Mitchell for the remainder of the meeting.)

Chairman DeBoer announced Charlotte County offices will be open on Friday, June 11, 2004 and Federal government offices will be closed in remembrance of former President Ronald Regan.

X. PLANNING AND ZONING AGENDA

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

(**Chairman DeBoer** requested the Deputy Clerk to administer the oath to prospective witnesses for Agenda Items DD-2 through DD-9. **Deputy Clerk Diane J. Nice** administered the oath.)

Future Land Use Map Amendments: These are legislative hearings that must meet the "fairly debatable" legal standard.

Agenda Item DD-1, PA-03-12-50, District I (Proof of Publication was in Order.)

Jorge Perez, Planner II, gave a slide presentation on the site and adjacent areas including an aerial and Zoning and Future Land Use Maps (FLUM); explained Rafeek A. and Bibi H. Sattar requested a small scale FLUM amendment from Low Density Residential (LDR) to Commercial Corridor (CC) on .64+ acre located at the corner of Duncan Road (US 17) and Pine Grove Circle, north of Pine Grove Circle, south of US 17, east of Pine Grove Circle, and west of Washington Loop Road, Punta Gorda area, to extend the CC FLUM designation one lot deeper into a residential neighborhood for the expanded auto repair shop, car sales, and vehicle rental business to the rear lot that is zoned Residential Single Family (RSF-3.5); advised the Florida Department of Transportation (FDOT) in 1989 took a good portion of applicants' property for the four-laning of US 17 and the taking diminished the CI area; Code Compliance and Community Department staff have been working with applicants to resolve differences i.e. a PD was found to be inadequate since the setback, stormwater, and parking requirements would be too site restrictive and staff opposed a rezoning application to CI so it was not ever brought to the Board; staff recommends denial since approval of the amendment would shift commercial uses into the residential area, an inconsistency would be created between FLUM and zoning classifications on one of the lots, the additional commercial property could then be sold as an independent parcel with access onto Pine Grove Circle a residential roadway, the residential community would then be faced with loud noises, and buffers would be necessary; reported applicants are seeking a special exception to allow commercial uses on all three parcels but the FLUM designation must be changed to CC prior to consideration of a special exception by the Board of Zoning Appeals (BZA); approval of the special exception may be conditioned by BZA for buffers and setbacks; suggested applicants be given an opportunity to comment on this aspect; and the Planning and Zoning (P&Z) Board heard the application on May 10, 2004 and recommended denial by a 3:1 vote. Mr. Perez stated an additional presentation would be given on the rezoning petition. Kathryn Lyden, Sunshine Engineering Ltd. Co., appeared on behalf of applicants; distributed a copy of the survey and zoning map; explained FDOT acquired approximately 8,500 square feet that basically eliminated all of the parking

for the building, the parking was shifted to Lot P-1 that is comprised of approximately 6,900 square feet, and the remainder of parking shifted to Lot P-2; pointed out Tom Smith has suggested applicants file for a special exception with buffer requirements to attain the same visual conditions of a 25 foot setback that would be accomplished under a Planned Development (PD); Parcel 30, located across the street from the site protrudes further into a residential area than applicants' property, it has two different zoning classifications, and the property owner could go before BZA to obtain a commercial designation on the entire parcel; County staff and applicants have been working diligently to negotiate a solution that will not adversely impact applicants' operations and benefit the residential neighborhood; advised approval of the plan amendment would allow applicants to proceed with a special exception and develop a win-win situation for the community. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0).** **Commissioner Horton** pointed out all three parcels could be sold separately or used as one parcel and questioned why a PD is not being done. Mr. Perez advised a PD was originally suggested for the site but requirements for 25-foot setbacks would be too restrictive on the shallow, long piece of property and it would not have been feasible for applicants to continue their business operations. **Commissioner D'Aprile** stated, based upon evidence and testimony he does not find that approval of the plan amendment would adversely affect the residential area because of adjacent CG parcels, acknowledged the FDOT taking created adverse impacts on applicants' business, and requested more discussion. **Commissioner Horton** requested an explanation of staff's recommendation for denial. Mr. Perez pointed out approval of the plan amendment would create a short-term inconsistency of the RSF zoning and CC FLUM designations; the BZA and P&Z Board can place conditions on the special exception for buffers, structural setbacks, and access onto the site; and someone could file for a rezoning in the future to commercial if the special exception is not approved. Mr. Perez reported applicants have made assurances that they will file for a special exception if the plan amendment is approved. **Commissioner D'Aprile** concluded applicants' business is in a detrimental state because of the taking by FDOT and they need assistance. Mr. Perez pointed out if the Board decides on the special exception route; it would be necessary to accept applicants' assurances that they will file

for a special exception. **Commissioner D'Aprile** requested a response from Ms. Lyden and stated he cannot support approval of the plan amendment without some guarantee. Ms. Lyden requested applicants to provide the assurances. Rafeek Sattar and Bibi H. Sattar, who were both sworn in, stated they promise to do whatever it takes to make the property work because they have been suffering for a long time. **Chairman DeBoer** noted for the record that applicants have assured the Board they will file for a special exception if this plan amendment is approved. **Commissioner Horton** requested an explanation from Ms. Lyden regarding the marking of Lot P-30. Ms. Lyden stated P-30 has CG and RSF zoning designations and requested an explanation on ramifications from Tom Smith. Tom Smith, Zoning Official, explained the single parcel is split between two zoning districts, a very small strip of commercial along US 17 as a result of the FDOT taking and a larger area of RSF at the rear; the Zoning Code allows the owner to make application to the BZA to change the use on the entire parcel to one of the existing zoning designations; and reported the owner of P-30 has filed for rezoning of the entire parcel to the commercial. **Chairman DeBoer** questioned how the State of Florida could take property, as part of an eminent domain proceeding, to within four feet of a business doorway on a major road when the County has been told that cannot be done. Mr. Smith advised a taking that occurred further up on US 17 required removal of one-half of a building for the road expansion. **Chairman DeBoer** pointed out that other property owners, in situations similar to applicants, could potentially file for plan amendments and rezonings. Mr. Smith stated commercial businesses in that area have had their ability to operate reduced and sidewalks are located just two feet from the front of many homes along US 17. **Chairman DeBoer** opined businesses have been impaired to the point of not being functional and it is not allowed under Florida Statutes. Louis Whitehead, Assistant County Attorney, advised the condemnee should be made whole as a result of a taking. **Chairman DeBoer** concluded the County is bailing out FDOT and the entire property should have been purchased. Attorney Whitehead rationalized that FDOT and the condemnee should have handled those issues during the condemnation proceedings, this plan amendment and the accompanying rezoning are subsequent proceedings and not a bail out. **Chairman DeBoer** took exception and pointed out as a result of failures by FDOT or the Courts, the County has been put in a position to approve rezoning and land use map changes in

invasive ways to put incompatible uses into residential areas in contradiction to the Comprehensive Plan. Attorney Whitehead cautioned the Board there is no guarantee the special exception will be granted. **Commissioner D'Aprile** pointed out applicants have expressed a willingness to file for special exception; approval of this plan amendment and rezoning will afford them that option; and he feels confident, based upon testimony, that applicants will proceed with the special exception and it would be granted. **Chairman DeBoer** requested a copy of the minutes from the P&Z Board meeting to review discussion and the rationale for denial. Mr. Perez advised, while copies of the minutes were distributed, that discussion occurred regarding access issues, the ramifications of creating an independent lot, and concerns similar to this Board. (Board Members reviewed the P&Z Board minutes.) **COMMISSIONER HORTON MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-037 APPROVING PETITION PA-03-12-50 FILED BY RAFAEEK A. AND BIBI H. SATTAR BASED UPON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED APRIL 28, 2004, THE EVIDENCE AND TESTIMONY INCLUDING THE COMMITMENT MADE BY APPLICANTS TO PURSUE THE SPECIAL EXCEPTION PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** **Chairman DeBoer** expressed support for the motion based upon testimony given that applicants' business has been rendered inoperable as a result of the extenuating circumstances created by the FDOT taking. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).** **Commissioner Horton** complimented staff for making sure all information was available for Board member to make this decision. **Commissioner D'Aprile** stated he is proud the Board showed compassion by helping applicants. **Chairman DeBoer** pointed out the Board has more discretion than staff and expressed the belief that, if staff had the same discretion, they would have done the same as the Board.

Rezoning: These are quasi-judicial hearings that require disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allow for cross-examination of witnesses and rebuttal.

Agenda Item DD-2, Z-03-12-51, District I (Proof of Publication was in Order.)

Mr. Perez advised the rezoning request is on the same property as in the prior application, the plan amendment just approved extension of the US 17 CC FLUM designation, the zoning map still reflects the parcel where the automotive repair shop is located as CI, and the third lot as RSF; the special exception will address all of the commercial issues; and since the smallest parcel is under CG, it is complimentary to the business operating on P-42, it would be appropriate to rezone the property and extend it to CI; staff recommends approval; and the P&Z Board heard the application on May 10, 2004 and recommended approval. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.)** Ms. Lyden expressed appreciation for staff's diligence and for the Board's compassion in this situation and concurred with staff's presentation. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0). COMMISSIONER D'APRILE MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-038 APPROVING PETITION Z-03-12-51 FILED BY RAFAEK A. AND BIBI H. SATTAR BASED UPON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED APRIL 28, 2004 AND THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0).**

Agenda Item DD-3, Z-04-02-05, District II (Proof of Publication was in Order.)

Jie Shao, Planner II, gave a slide presentation on the application filed by Classic Autos, Inc. for rezoning from CG to CI on a .41+ acre site (Lots 1, 2, and 3, Block A, Solona Court Subdivision) located at 25300 East Marion Avenue, Punta Gorda. (Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.) Ms. Shao continued the presentation and explained the FLUM designation of the site is Commercial Center; the purpose for the rezoning is to allow expansion of the vehicle restoration and sales facilities; the site is currently used for auto sales, repair, and storage (a non-conforming use); the structure is also non-conforming under CG zoning; allowing the site to retain the CG zoning would not eliminate a non-conforming structure but would eventually eliminate an intensive non-conforming use that utilizes outside storage for vehicles and equipment and also bar reuse of the site for other intensive uses; the site is surrounded by residential single family houses

and a house sectioned into apartments; according to the 1997-2010 Comprehensive Plan, intensive uses should not be located adjacent to residential uses; the Solona area is a historic area and many of the commercially zoned areas still retain residential uses, which are remnant land designations from the time prior to completion of US 17; East Marion Avenue mainly serves as a collector road for local and residential traffic but still remains a gateway into the residential community of Solona Court Subdivision; based on the impact to surrounding residential land uses and the fact that the rezoning is considered spot zoning, staff recommends denial; and the P&Z Board recommended approval. Michael P. Haymans, of the law firm of Farr, Farr, Emerich, Sifrit, Hackett and Carr P.A., introduced the owner, Skip Mackie; advised the garage was constructed and has continued to serve as a garage and a CI use since 1961; the current owner purchased the property in 2002 for classic car restoration on site with primary marketing performed on the internet and at car shows; the site is not the principle entrance to the Solona Subdivision i.e. the entrance is from Florida Avenue and Charlotte Street; reviewed numerous CI and CG uses along Marion Avenue (US 17); James and Betty Jo Brown own property across the street from the site zoned Office, Medical and Institutional (OMI) in the Commercial Corridor and they do not object to the garage; reported Mr. Mackie has been denied financial assistance because of the non-conforming use on the property and the zoning must be changed to a conforming use in order for him to obtain funds to upgrade the appearance of the facility; this is a good business and a good guy who needs some relief to continue the current use on an upgraded basis; and he has personal knowledge that James and Betty Jo Brown and Chris and Sankey Webb, who are the two nearest neighbors, have no objection to the rezoning. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0). COMMISSIONER HORTON MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-039 APPROVING PETITION Z-04-02-05 FILED BY CLASSIC AUTOS, INC. BASED UPON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED MARCH 30, 2004, THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARING, AND FIND THAT THE EXISTING COMMERCIAL USE IS SURROUNDED BY OTHER INTENSIVE COMMERCIAL USES, SECONDED BY COMMISSIONER D'APRILE.** Commissioner D'Aprile stated the photograph of the front of the building is unsightly and requested assurance from the owner that improvements will be

made to make it more pleasing to the eye. Skip Mackie stated the photograph of the front is one of the worst he has seen, usually vehicles are neatly lined up, the whole front of the building is to be redone with antique gas pumps, an entire new lighting system, the rear of the building is to be totally concrete, and improvements cannot be done until after he receives additional funds. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).**

Street Vacation: This is a legislative hearing that must meet the "fairly debatable" legal standard.

Agenda Item DD-4, SV-04-02-04, District V (Proof of Publication was in Order.)

Michael Konefal, Community Development Director, gave a slide presentation on the application filed by James E. Anderson, Trustee of the Harborview Trust, to vacate a .25+ parcel, being a portion of an unnamed road running between Lot 1, Block D and Lot 10, Block A, Shelton's Addition to Hickory Bluff, located south of Harborview Road, north of Jason Street, east of Homewood Street, west of Mills Street in the Charlotte Harbor area, in Section 25, Township 40 South, Range 22 East; the vacation would provide consolidation of the property owned by the applicant on both sides of the roadway; staff recommends approval; and the P&Z Board heard the application on May 10, 2004 and recommended approval. Attorney Haymans appeared on behalf of the applicant in support of the application. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (3:0). COMMISSIONER D'APRILE MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-101 APPROVING PETITION SV-04-02-04 FILED BY JAMES E. ANDERSON, TRUSTEE OF THE HARBORVIEW TRUST, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0).**

RECESS: 3:15 P.M. - 3:23 P.M.

Preliminary Plats: These are quasi-judicial hearings that require disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allow for cross-examination of witnesses and rebuttal.

Agenda Item DD-5, PP-04-03-03, District III (Proof of Publication was in Order.)

Mr. Konefal presented the application filed by Angler's Club at Boca Grande, LLC for Preliminary Plat approval for Angler's Club at Boca Grande, located in Section 12, Township 42 South, Range 20 East, east of CR 771 and north of Coral Creek in the Placida area, for 12 single family lots on 2.01 acres for a density of six units per acre; the zoning is Residential Multi-Family-12; minimum lot size for the cluster development is 30 feet by 107.42 feet and 3,222 square feet; the site encompasses land that was previously platted as Tracts A, E, and F of Coral Creek Angler's Club and Lots 40 through 46 and Tract G of Coral Creek Angler's Club II; 12 existing boat slips are also being platted; the boat slips will be used by the Development as a whole; permitting for docks will be separate from this application and approval of the plat will not authorize construction of additional docks; water and sewer service will be provided by Charlotte County Utilities; even though the roads will remain private, they will be built to County standards or equivalent as approved by the County Engineer; staff recommends approval; and the P&Z Board heard the application on May 10, 2004 and recommended approval. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.)** Mark Theis, of Johnson Engineering, Inc., appeared on behalf of the applicant and concurred with staff's recommendation for approval. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (3:0). COMMISSIONER D'APRILE MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-03-03, ANGLER'S CLUB AT BOCA GRANDE, SECONDED BY COMMISSIONER HORTON.** Commissioner Horton requested the density prior to the replat. Mr. Konefal recalled about 10 lots and this preliminary plat is essentially the same number. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).**

Agenda Item DD-6, PP-04-03-05, District II (Proof of Publication was in Order.)

Mr. Konefal gave a slide presentation on the application of Dr. John Moenning, on behalf of the Merle Jeanne Moenning Trust, for Preliminary Plat approval for Moenning Residential Subdivision, located in Section 25, Township 41 South, Range 22 East, south of Rio Villa Drive and north of Alligator Creek at the end of

Sea Edge Drive in the Punta Gorda area, for three single family lots on 1.6 acres for a density of 1.8 units per acre; the zoning is Mobile Home Conventional (MHC); the minimum lot size is .29 acre; water and sewer service will be provided by City of Punta Gorda Utilities; roads will be built to County standards but will remain private; staff recommends approval; and the P&Z Board heard the application on May 10, 2004 and recommended approval. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.)** John Swen, Charlotte Engineering & Surveying, Inc., appeared on behalf of applicant and concurred with staff's report and recommendations for approval. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0). COMMISSIONER D'APRILE MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-03-05, MOENNING RESIDENTIAL SUBDIVISION, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (3:0).**

Agenda Item DD-7, PP-04-03-06, District II (Proof of Publication was in Order.)

Mr. Konefal presented slides on the application submitted by Rio Villa Lakes, LLC for Preliminary Plat approval for Rio Villa Lakes located in Section 18, Township 41 South, Range 23 East, west of US 41 and north of Rio Villa Drive, for 93 lots on 27.12 acres for a density of 3.43 units per acre; minimum lot size is 54 feet by 105 feet or .13 acre; the site encompasses lands that were platted as Aqui Esta Subdivision Unit 2; Petition SE-03-26 was previously approved for a special exception to allow cluster housing and the lots are smaller than RSF lots; the developer has also filed for a street vacation of a portion of Ames Drive; water and sewer service will be provided by City of Punta Gorda Utilities; roads will be built to County standards but will remain private; pointed out the Board had before it last month a street vacation on a portion of Ames Street, this is the item that was to be brought simultaneously to complete the street vacation, the developer decided not to redesign the plan to accommodate the extra lot that was going to be created based upon the total vacation, and the total lots remain at 93 not 94; staff recommends approval; and P&Z Board heard the application on May 10, 2004 and recommended approval. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.) (Deputy Clerk Diane J. Nice administered the oath to the applicant, Ben Maltese.)** Mr. Maltese concurred with staff's

report and recommendation and offered to answer questions. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (3:0).** Commissioner Horton questioned if the lots are substandard in size. Mr. Konefal explained the existing lots and proposed lots comply with Charlotte County Code requirements and the plan provides a better layout. **COMMISSIONER HORTON MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-03-06, RIO VILLA LAKES, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (3:0).**

Agenda Item DD-8, PP-04-03-04, District II (Proof of Publication was in Order.)

Final Detail Plan: (This is a legislative hearing which must meet the "fairly debatable" legal standard.)

Agenda Item DD-9, DRC-PD-02-02, District II (Proof of Publication was in Order.)

Mr. Konefal advised issues relating to protection of heritage trees on the property have been identified and requested Agenda Items DD-8 and DD-9 be continued to Tuesday, June 22, 2004, at 2:00 P.M. to allow staff an opportunity to resolve these issues. **COMMISSIONER HORTON MOVED TO CONTINUE THE PUBLIC HEARING ON AGENDA ITEMS DD-8 AND DD-9 TO TUESDAY, JUNE 22, 2004, AT 2:00 P.M., SECONDED BY COMMISSIONER D'APRILE.** Chairman DeBoer requested citizen's input and there was none. **CALL ON THE MOTION: DECLARED UNANIMOUS (3:0).**

MEETING ADJOURNED: 3:35 P.M.

Book 62, Page 482
June 8, 2004

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/ksm/djn