

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

JUNE 22, 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 Deputy Clerk Diane J. Nice. The meeting was called to order at **9:00 A.M.**

The **invocation** was given by Reverend Bob McDuffie, El Jo Bean Baptist Church, followed by the Pledge of Allegiance to the Flag.

Chairman DeBoer wished all fathers present and listening a Happy Father's Day, commented on the importance of a father's role in the family and as a parent, and encouraged those who have children out on their own to volunteer and serve with Big Brothers and Big Sisters.

CHANGES TO THE AGENDA

Additions:

**X. Regular
Agenda**

Agenda Item X-3, County Attorney - Set an Executive Session in the matter of Charlotte County vs. IMC for Tuesday, July 6, 2004, at 10:00 A.M. in the County Attorney's Conference Room.

Agenda Item X-4, General Services - Approve Change Order #2 to Contract #04-026, Health Department HVAC Replacement, with Air Mechanical & Service Corp., to increase the contract by \$4,745 for a revised total contract of \$117,099.

Proclamation Charlotte County Sheriff's Major Crime and Crime Scene Personnel Appreciation Day - June 22, 2004

Change No. 1 to Addition No. 1 Agenda Item X-3, County Attorney - Set an Executive Session in the matter of Charlotte County vs. IMC for Tuesday, July 6, 2004, at 10:00 A.M. in the **County Administrator's Conference Room.**

Deletion: Agenda Item G-4, Community Development - Set a Public Hearing for July 13, 2004, at 10:00 A.M., or as soon thereafter as it may be heard, to consider approval of the text amendment changes for the Solid Waste Section of the Infrastructure Element.

COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE ADDITIONS, CHANGE, AND DELETION TO THE AGENDA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

I. SPECIAL RECOGNITION

Proclamation:

THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING JUNE 22, 2004 AS "CHARLOTTE COUNTY SHERIFF'S MAJOR CRIME AND CRIME SCENE PERSONNEL APPRECIATION DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. William Cameron, Acting Sheriff, accepted the proclamation, acknowledged the work done with professionalism and pride by all of the Major Crime Detectives and Crime Scene Personnel including but not limited to the following who were present: Major John Davenport, Lt. Savage, Lt. Sbarbori, Sgt. Marinola, Sgt. Prummell, Ivan Kiselev, Sylvia Love, Loree Monks, Ronald Mueller, and Martha Faul.

Presentation:

Paula Wilman, Chief Professional Officer, and Deborah Fitzgerald, President of United Way of Charlotte County, recognized County employees and Board Members for contributions to United Way; last year employee campaigns raised \$18,974 which

was an 81% increase over the prior year and a 20% increase in the number of employees participating; recognized leadership efforts of Environmental and Extension Services Director Jim Thomson who is also a United Way Board Member and President Elect for next year, Commissioner Devos, County Attorney René Francis Lee, and County Administrator Bruce D. Loucks; and reported employee campaigns raise 75% of the United Way goal.

II. CITIZEN INPUT - AGENDA ITEMS ONLY

Mike Cripps commented on **Agenda Item X-1, Proposed Land Swap at Holiday Lakes**, recalled the first swap proposal was made in 1985, stated the existing dock would be good for small boats and kayaks, the primary reason for the swap is to provide security for residents, pointed out the dock space would become much more valuable were the dam to be removed in the future, and encouraged the Board to consider staff's recommendation to not approve the swap.

Jerry O'Halloren questioned the appropriateness of input at this time regarding public hearing agenda items. **Chairman DeBoer** announced procedures regarding input at public hearings and explained citizens may utilize this time when they are unable to attend public hearings. Mr. O'Halloren elected to wait.

Commissioner Cummings requested personal privilege to bring up the proposal on the pipeline agreement with DeSoto County i.e. the cost of a 20" pipeline to Wal-Mart would be the same as a 16" pipeline to Lettuce Lake; stated he would have supported the proposal if \$200,000 in Southwest Florida Water Management District (SWFWMD) funds were put up but he has learned the next plant expansion would provide the funds; that means the money would come from regional members and Charlotte County would contribute approximately \$66,000; he is not satisfied with the current status but \$66,000 to approve the likelihood of an interconnect to the City of Punta Gorda's plant is a worthwhile investment and the right thing to do; this is the original deal with \$200,000; and requested comments from Board Members later today or prior to the next Water Authority meeting on the first Wednesday in July. **Chairman DeBoer** advised his comments would be made at the end of the meeting. **Chairman DeBoer** commented on a synopsis of a Board of County Commissioners meeting in the "St. Petersburg Times", opined people in Charlotte County are

civil and considerate of each other's opinions, and stated Attorney Lee may wish to return. **Commissioner Cummings** expressed a willingness to hire her back after a month at a 10% pay cut.

III. COMMITTEE VACANCIES

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

Alligator Creek Waterway Advisory Committee - one (1) volunteer, who must be a resident of Charlotte County and resides within the boundaries of the Alligator Creek Waterway Unit

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 (one appointment on the agenda under Agenda Item C-1)

IV. REPORTS RECEIVED AND FILED

None.

V. CONSENT AGENDA

COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE FOLLOWING ITEMS, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

CLERK OF THE CIRCUIT COURT

A. Finance Division

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

- Memorandum #1 Status of Contingency Reserves - FY 02/03
- Memorandum #1A Status of Contingency Reserves - FY 03/04
- Memorandum #2 Total Disbursements for the period June 1, 2004 through June 25, 2004 in the amount of \$7,751,287.06

B. Minutes Division

Agenda Item B-1, Approval of Minutes

9:00 A.M. May 25, 2004 Regular BCC Meeting

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

Agenda Item C-1

Reappoint Michele Valencourt to the Tourist Development Council as "Member involved with Tourist Industry."

Agenda Item C-2

Reappoint Michael L. Graveson to the Planning and Zoning Board for another four-year term as the District Five Representative.

D. Administration

No items.

E. County Attorney

Agenda Item E-1

Bonds for Constitutional Officers and Elected Officials are in compliance and full effect at this time.

F. Budget Office

Agenda Item F-1

MSBU assessment rates approved for inclusion in the TRIM (Truth in Millage) Notices. **Chairman DeBoer** questioned if Board Members received copies of the rate schedule since he had 12 sets in his packet.

Agenda Item F-2

Grant #2004-009 for equipment for Florida Strategy between the State of Florida and Charlotte County under the State and Local Domestic Preparedness Equipment Program, the value of the equipment and supplies provided will not exceed \$19,000, and the Fire/EMS Department to provide approximately \$600 of required supplies to be funded out of the Fire Rescue operating budget.

Agenda Item F-3

Grant #2004-010 for the County as "Coordinating Unit" for the 2004/05 Byrne Grant in the amount of \$123,406 to address substance abuse in teenagers and the Sheriff's Office to be responsible for \$30,850 in match funds.

G. Community Development

Agenda Item G-1

Agreement #2004-034 between NB/85 Associates, Wayne Ruben, and Charlotte County for development pursuant to PP-03-03-03, Final Plat for Suncoast Lakes approved simultaneously herewith, as requested by Benderson Development Company, to develop 205 residential lots on 72 acres, and accept Subdivision Bond #SU 5004565 for \$2,244,000 issued December 1, 2003 by Arch Insurance Company to Kings Gate Homes, LLC.

Agenda Item G-2

Resolution #2004-102 approving DRC-PD-03-05, Final Detail Plan permitting Anton Dubbaneh, to construct a 5,399 square foot commercial office/retail building within Dubbaneh Commercial Development on .66+ acre site located at 2231 Tamiami Trail and 710 Mirado Lane in Port Charlotte Subdivision, Section 23, Block 442, Lots 13, 14 and 15 in Section 17, Township 40 South, Range 22 East in Port Charlotte.

Agenda Item G-3

Resolution #2004-103 approving the DRC-PD-80-6(B), Partial Final Detail Plan permitting First Christian Church/PC, Inc., to develop Phase I for the Church sanctuary and covered arrival

area and Phases II and III include the fellowship hall/gymnasium, athletic field, before and after school child care program/summer camp child care program called "Camp Glory" on Peachland Boulevard.

Agenda Item G-4

Deleted.

Agenda Item G-5

Budget Transfer #04-044, direct the Attorney's Office to draft **Agreement #2004-035** for transfer of the \$20,000 to Lee County for completion of a joint Lee/Charlotte County Boca Grande Community Plan, and authorize the Chairman to sign the interlocal agreement.

H. Economic Development

No items.

J. Environmental Services

Agenda Item J-1

Agreement #2004-036 for the assignment of Trash Collection Agreements between Charlotte Sanitation Unit and West Charlotte Sanitation Unit with Waste Management to the Charlotte County Sanitation Unit, established pursuant to Ordinance #2004-006, and acceptance effective October 1, 2004.

K. Facilities Construction and Maintenance

No Item.

L. General Services

Agenda Item L-1

Piggyback of File #04-325, Asphalt Rejuvenation, onto City of Punta Gorda Contract #F03078/CONS-ASPHALTREJUV0203, with Pavement Technology, Inc., of Westlake, Ohio, at the unit rate of \$.54 per square yard, for the term from notice of award to

May 20, 2005 with option to renew for an additional one-year term and authorize the Administrator to approve renewal of additional one-year term.

Agenda Item L-2

Piggyback of File #04-327, Vehicle Repair Parts, from Bumper to Bumper Auto Parts of Tampa, Florida, at the unit prices indicated from Lee County Quotation #Q-010263 from the date of approval through and including August 20, 2004 and authorize the Administrator to approve renewal options for up to two additional one-year terms at the same prices, terms, and conditions by mutual consent.

Agenda Item L-4

Award Bid #04-186, Charlotte County Mid-County Regional Library - Coffee Concession, to the highest responsive, responsible bidder, Grit Upchurch of Port Charlotte, Florida, for the monthly rental fee of \$350 plus 11% of gross monthly receipts.

Agenda Item L-7

Chairman DeBoer requested Thomas O'Kane, Public Works Director, provide an explanation later regarding the delay of the Midway Boulevard Widening Project. **Approve CIP Project Amendment #04A-039 and Budget Transfer #04-042** in the amount of \$255,000 from Contingency Reserves within Road Improvements to fund the project in the current fiscal year; **allow negotiations of Amendment #2 to Contract #96-314, Midway Boulevard Widening - Engineering**, with Giffels-Webster Engineers, Inc.; and **authorize the Chairman to sign final Amendment #2 providing the amount does not exceed \$245,175.60.**

M. General Services - Real Property Services

Agenda Item M-1

Resolution #2004-104 authorizing the Chairman to execute a County Deed releasing portions of two six (6) foot wide utility and drainage easements located in Lots 3 and 4, Block 3446, Port Charlotte Subdivision, Section Sixty-Nine (69) in Charlotte County to Arthur Crane and Rebecca Crane a/k/a Arthur S. Crane

and Rebecca A. Crane to use the lots as a single site to construct a single family residence at 6286 and 6278 Magee Street, Englewood East.

Agenda Item M-2

Resolution #2004-105 authorizing the Chairman to execute a County Deed releasing portions of two ten (10) foot wide utility and drainage easements located in Lots 19 and 20, Block 1716, Port Charlotte Subdivision, Section Fifty-Two (52) to Robert S. Huntsberger, Jr. and Debra Huntsberger to use the lots as a single site to construct a single family residence at 5472 Mahoney Street (Lot 19) and 5832 Gillot Boulevard (Lot 20), Englewood East.

N. Human Resources

No Items.

P. Human Services

Agenda Item P-1

Resolution #2004-106 approving the Affordable Housing advisory Committee's recommendation to revise the Local Housing Assistance Plan by increasing SHIP purchase price and property value limits from \$95,000 to \$105,781 effective July 1, 2004, for Housing Strategies "Down Payment Assistance," "Housing Construction," and "Housing Rehabilitation," and authorize the Committee to seek State approval of the revision.

Q. Information Technology

No Items.

R. Parks, Recreation & Cultural Resources

Agenda Item R-1

Set a Public Hearing for July 13, 2004, at 10:00 A.M., or as soon thereafter as may be heard, to consider an ordinance creating a Historical Advisory Committee.

S. Public Safety

No Items.

T. Public Works

Agenda Item T-1

Resolution #2004-107 authorizing the Chairman to execute **Agreement #2004-037** (FEID # 59600054108 and Financial Project # 412665-1) for traffic signal maintenance and compensation with the State of Florida Department of Transportation for Fiscal Year 2004/05.

V. Tourism Development

No Items.

W. Utilities

No Items.

DISCUSSION ITEMS

L. General Services

Agenda Item L-3, Approve Change Order #8 to Contract #03-484, North County Paving Program, with AJAX, Inc., of Nokomis, Florida, in the amount of \$849,763.65 for a revised total contract amount of \$4,941,482.53 and Agenda Item L-8, Approve Change Order #9 to Contract #03-484, North County Paving Program, with AJAX, Inc., of Nokomis, Florida, in the amount of \$141,286.34 for a revised total contract amount of \$5,082,768.87

Chairman DeBoer stated significant problems exist with the quality of paving, expressed the belief that he and Mr. O'Kane will be shocked regarding road conditions during the ride around, indicated concern the paving quality taxpayers deserve and are paying for is not being delivered, he has found base failures in the area where is lives, and steps need to be taken now to circumvent a legacy of this Board that even though a lot of paving was done roads will have to be redone in 10 years whereas roads lasted 30 or 40 years before they were repaved the

first time. **COMMISSIONER D'APRILE MOVED FOR APPROVAL OF AGENDA ITEMS L-3 AND L-8, CHANGE ORDERS #8 AND 9 TO CONTRACT #03-484, NORTH COUNTY PAVING PROGRAM, WITH AJAX, INC., OF NOKOMIS, FLORIDA FOR REVISED CONTRACT AMOUNTS OF \$4,941,482.53 AND \$5,082,768.87, RESPECTIVELY, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

Agenda Item L-5, Request a Waiver of Bid Procedures for File #04-345, CourtSmart Recording System, and award to CourtSmart Digital Systems, Inc. for a total cost of \$108,900

Chairman DeBoer requested the system installed when the Justice Center was constructed that is being replaced. Kimberly Corbett, Purchasing Director, expressed uncertainty; advised the Court Administrator's Office proffered the request; and expressed understanding that the new system would automatically record courtroom functions in lieu of individuals. **Chairman DeBoer** concluded the system would replace court reporters and an automated system was not installed during construction of the Justice Center. Ms. Corbett stated that is her assumption, the request was submitted by Court Administrator William Hayes and Lee County Court Administrator's Office, and the agreement was signed by the Administrative Office of the Courts for the 20th Judicial Circuit. **Chairman DeBoer** questioned the Board's responsibility to pay the cost under Article V, Revision 7. Tommy Q. White, Chief Deputy Board Service, explained it would be a local optional program. **Chairman DeBoer** stated use of court reporters was very clear but the automated program might be interpreted as communications. Mr. White agreed. **Chairman DeBoer** pointed out the County may be spending \$108,900 that is optional. Mr. White concurred. **Chairman DeBoer** questioned why bid procedures were not followed if this is the Board's responsibility and did Court Administration bid it out. Ms. Corbett reiterated the 20th Judicial Circuit Administrative Office signed the agreement with CourtSmart in November 2003 and at that time CourtSmart was on the SNAPS Agreement with the State of Florida which provides a negotiated pricing schedule; unfortunately, the SNAPS Agreement expired about three days prior to staff compiling all of the information; opined, in order to assure compliance with the Procurement Code, the request was brought to the Board in accordance with the agreement signed by the 20th Judicial Circuit, and recommended bid procedures be waived to make sure that provisions in the

Procurement Code are accommodated. **Commissioner Cummings** questioned what would occur if Board action were delayed. Ms. Corbett advised the Court Administrator's Office was anxious to allow CourtSmart to get started, a delay would not affect the Purchasing Department, and indicated she would contact Mr. Hayes to ascertain the impact if action were deferred until the next Board meeting. **Commissioner Cummings** requested the effective date of Article V revisions. Mr. White advised July 1, 2004. **Commissioner Cummings** pointed out the State may be responsible for the cost after July 1, 2004 and it would be a motivation to expedite award and waive bid procedures. **Chairman DeBoer** indicated the State would require the Board to maintain the system if it were purchased by the Board. **Commissioner Cummings** recalled an issue has been raised on making the scroll available for the hearing impaired on CCTV, it would cost \$75 per hour to hire someone to record it, and he would support addressing the issue in a cost effective manner as part of an automated system. **COMMISSIONER MOVED FOR APPROVAL TO DEFER ACTION ON AGENDA ITEM L-5 UNTIL 1:50 P.M. TODAY TO ALLOW STAFF TIME TO BRING BACK ANSWERS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item L-6, (a) Approve CIP Amendment #04-A040, Veterans Boulevard Improvements Project and Budget Transfer #04-043 in the amount of \$520,884 from Contingency Reserves in Road Improvements; (b) Award Bid #04-275, Veterans Boulevard Improvements, to Phoenix Construction Services, Inc., in the amount of \$12,758,201.24; and (c) Award Request for Proposal #04-108 CEI Services - Veterans Boulevard, to Johnson Engineering of Port Charlotte, Florida, for a not-to-exceed amount of \$1,544,683.80

Chairman DeBoer stated the City of North Port will have more platted lots at build out accessible to Veterans Boulevard than Charlotte County, questioned why the City is not paying more than \$200,000 of the \$12,758,201.24 contract, and requested an explanation of what is being done about the access points. Mr. O'Kane reported the number of access points have been reduced because this would be a higher speed roadway, advised approximately 23 lots along the north side with direct access will be cut off completely with access through a service road to Veterans at Orlando and one other road, the latest from the City of North Port is a proposal to pay one-half of the stormwater

crossings for their service road restoration for the 23 lots, the Water District has imposed a permit condition that impacts both the City and Charlotte County, and the City has expressed a willingness to pay one-half of that amount. Mr. O'Kane reported on a meeting with the Public Works Director and Engineer for the City last week on concerns about the County being paid for Hillsborough and this project; related they plan on going before the City Council on Monday with a request to approve the budget for both projects and a purchase order would then be issued; and he will keep the Board apprised of the status. **Chairman DeBoer** questioned if the edge of pavement for the access roads are on the County/City line because he wants to make sure that access points do not abut the County's roadway at the County/City line in order for the County to retain the ability to control future access improvements and suggested the County's roadway overlap the County/City line to alleviate the City making access improvements without the County's permission. Mr. O'Kane pointed out the curb and cutter is within the County and there is a space on the north side but he will research the issue and suggested a limited access easement might be considered.

COMMISSIONER HORTON MOVED FOR APPROVAL OF (A) CIP AMENDMENT #04-A040, VETERANS BOULEVARD IMPROVEMENTS PROJECT, AND BUDGET TRANSFER #04-043 IN THE AMOUNT OF \$520,884 FROM CONTINGENCY RESERVES IN ROAD IMPROVEMENTS; (B) AWARD BID #04-275, VETERANS BOULEVARD IMPROVEMENTS, TO PHOENIX CONSTRUCTION SERVICES, INC., IN THE AMOUNT OF \$12,758,201.24; AND (C) AWARD REQUEST FOR PROPOSAL #04-108 CEI SERVICES - VETERANS BOULEVARD TO JOHNSON ENGINEERING OF PORT CHARLOTTE, FLORIDA, FOR A NOT-TO-EXCEED AMOUNT OF \$1,544,683.80, SECONDED BY COMMISSIONER DEVOS.

Commissioner Cummings recalled homes have been taken for this road expansion and stated growth management for the future would reduce the amount of eminent domain lawsuits as in Murdock Village. **Chairman DeBoer** agreed and stated homes were taken for the Wimbleton/Winchester expansion. **Commissioner Devos** related a recent newspaper article indicated Sarasota County moving forward with the expansion of Winchester and River Road and it was mentioned that neither Charlotte County nor the City of North Port have offered additional funding. **Commissioner Horton** stated he has had numerous dialogues about the issue and he does not anticipate Sarasota County changing its priority on road projects. **Chairman DeBoer** advised Charlotte County has participated as a regional partner on numerous issues i.e. phosphate and Sarasota pipeline to the water plant, Charlotte

County has spent \$12+ million on Winchester outside of its boundaries, and Charlotte County is waiting for Sarasota County to reciprocate. **Commissioner Devos** pointed out the article did not mention Charlotte County's participation and contributions. Mr. O'Kane reported the newspaper article did not mention that \$10 million is the remainder of Federal funding from the grant awarded to Charlotte and Sarasota Counties. **Chairman DeBoer** stated he should become an ambassador and make other counties aware of Charlotte County's participation. **Commissioner Cummings** advised the City of Cape Coral is pushing the six-laning of Burnt Store Road for evacuation purposes, as Charlotte County did for the Winchester extension, and a power point presentation is being routed from the vendors. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

VI. REGULAR AGENDA

X. Regular Business

Agenda Item X-1, Parks, Recreation & Cultural Resources, Request Board of County Commissioners decision on proposed Land Swap at Holiday Lakes

Laura Kleiss-Hoeft, Parks, Recreation & Cultural Resources Director, explained staff initially reviewed the swap in relation to a future boat ramp but a more in-depth review has been conducted on the road right-of-way, the Florida Department of Environmental Protection (FDEP) has been contacted regarding the plug of land blocking the Butterford Waterway, FDEP does not support removal of the plug of land at this time, and this will impose certain restrictions on the use of the boat ramp. Mrs. Kleiss-Hoeff commented on the importance of maintaining the road right-of-way for public access to the State lands owned by Southwest Florida Water Management District, future visions include some lineal trials connecting the Cattle Dock area, swaping the right-of-way would reduce water front access and the ability to access State lands, advised maps of the two land swaps were included in the agenda packets on the area within South Gulf Cove and a possible vision of the lineal trial connecting the State owned lands with access off of S.R. 776 from Cattle Dock and C.R. 771 by Holiday Lakes. Mrs. Kleiss-Hoeff reported staff does not recommend vacation of the road right-of-way. **Chairman DeBoer** stated the main issues are

traversing the 6.6 miles of canal and access to State lands, requested the number of miles of current traversing canals from South Gulf Cove boat ramp to the lock and how much was spent to build the boat ramp. Mrs. Kleiss-Hoeft reported \$310,000 was spent from Boater Improvement and Boater Registration monies and the distance is approximately 8 miles. **Chairman DeBoer** stated the State lands referenced are the lands that the County objected to and traded in Tallahassee for the property put into Preservation along the lagoon area, the lands are not owned by the State, and that will be a private development. **Chairman DeBoer** opined this would be a good swap even if the ramp were to be utilized for canoes and kayaks as opposed to using the strip of land along a roadway and it is better to have a consolidated piece of land. **Commissioner D'Aprile** questioned the potential use of the property by the County and stated if the County does not have a future vision for the parcel, he does not object to the land swap. Mrs. Kleiss-Hoeft advised staff is currently working on an agreement regarding the Cattle Dock boat ramp site and indicated SWFWMD has entered into joint agreements for construction and maintenance of lands, public use, and preservation. **Commissioners Horton and Devos** expressed confusion regarding the State lands that were part of the land swap with the developer and requested verification on the State lands ownership. Mrs. Kleiss-Hoeft explained Exhibit 3 shows the lands immediately adjacent to Holiday Lakes and by the canal and advised staff relied on tax rolls for ownership. **Chairman DeBoer** reported the land swap agreement had not been signed when verified about a month ago so the tax rolls would not have reflected the change in ownership. **Commissioner Horton** concluded the County does not need access since the property is in private ownership and questioned the Butterford Waterway being the dividing boundary line for the street and drainage unit marking Holiday Lakes outside of the MSBU. Judy Hunter, Municipal Services District Representative, advised the Village of Holiday Lakes has 551 units that have never paid into the South Gulf Cove Street and Drainage Unit or the South Gulf Cove Waterway Unit even through they have access from a boat ramp provided on land from General Development Corporation and several docks located on the Butterford Waterway attached to County-owned property that were not permitted. **Commissioner Horton** expressed support for the swap contingent upon Village of Holiday Lake property owners becoming a part of appropriate funding units. **Chairman DeBoer** stated the Butterford Waterway

is not a dedicated waterway and the underlying property is owned by the Board of Charlotte County Commissioners as a Board of Trustees. **Commissioner Devos** questioned if approval of the land swap will eliminate access to private property. **Chairman DeBoer** explained the triangular piece of land that abuts the waterway on Exhibit C is property owned by the same company and provides access to the waterway. **Commissioner Devos** agreed with **Commissioner Horton** on the need to incorporate the Village of Holiday Lakes into the appropriate MSBUs and requested an explanation regarding the docks on County-owned property. **Chairman DeBoer** stated Code Compliance has commenced enforcement proceedings on the docks located on submerged lands owned by the County and staff was asked to wait until the Board takes action on the swap. **Commissioner Devos** stated she would have no problem with leaving the docks as long as they are in good repair and expressed support for the land swap. **Commissioner Cummings** requested verification on whether a conflict exists since his mother's company has the mowing contract for Village of Holiday Lakes Park. Reneé Francis Lee, County Attorney, stated a conflict does not exist. **Commissioner Cummings** stated approval of the land swap and incorporating Village of Holiday Lakes property owners into appropriate MSBUs would recognize what currently exists even through they are isolated from the MSBUs because of the road right-of-way, the swap would provide for a connected parcel and allow for incorporation into the MSBUs, and concurred with **Commissioner Horton**. **COMMISSIONER HORTON MOVED FOR APPROVAL TO DIRECT STAFF TO PROCEED WITH THE LAND SWAP AND INCORPORATE THE VILLAGE OF HOLIDAY LAKES INTO THE MSBU TO PAY THEIR PROPORTIONATE SHARE, SECONDED BY COMMISSIONER CUMMINGS.** **Commissioner Cummings** stated he wants to make sure the County would not be put in an adverse position to FDEP regulatory standards. **Chairman DeBoer** concluded the FDEP has higher authority than the County and the FDEP may take whatever action they think warranted in the future. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

RECESS: 10:15 A.M. - 10:21 A.M.

VII. PUBLIC HEARING AGENDA

Y. 10:00 A.M. Public Hearings

Agenda Item Y-1, Approve an Ordinance establishing the Heritage Lake Park Community Development District (CDD) pursuant to Section 190.005(2) Florida Statutes (FS)

Thomas A. Cookingham, Planning Services Manager, stated the petition before the Board is a request to establish Heritage Lake Park Community CDD pursuant to Florida Statute Section 190.005(2), staff reviewed the statutory criteria, found the proposal in compliance, and recommended approval. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-040, SECONDED BY COMMISSIONER D'APRILE. Chairman DeBoer** recalled this matter was before the Board on May 12, 2004. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item Y-2, Approve an Ordinance repealing Article XX, Chapter 3-5, of the Code of Laws and Ordinances by creating a new Article XX, Chapter 3-5, Transfer of Density Units (TDU) Code

Mr. Cookingham stated this is the final draft of the Transfer of Development Units (a/k/a Transfer of Density Units) Ordinance based upon workshops, public input, and a comprehensive rewrite of the Ordinance; on May 6, 2004 substantial changes were posed to the Board and the Ordinance was redrafted; the Ordinance was submitted and public input was received by the Planning & Zoning Board; offered to review the Ordinance changes in detail and stated the primary changes were changing and adding some definitions, making editorial changes regarding the Future Land Use Map (FLUM), renumbering sections for clarity, adding an Administrative Relief section, redefining density calculations and how density may be used, revising sending and receiving zones, expanding exceptions and what density will be allowed to be transferred in the high hazard area, and how excess density in a sending zone may be utilized and transferred. **Commissioner Cummings** expressed continued concerns regarding the New Town Rural Villages a/k/a New Community Rural Community placement within the County and how they might be addressed on an interim

basis, requested verification that a Comprehensive Plan amendment would be necessary, and asked the difference in classification between U.S. 41 and U.S. 17 versus Burnt Store Road, S.R. 74, and S.R. 31. Mr. Cookingham agreed a Comprehensive Plan amendment would be necessary and expressed uncertainty regarding the classifications. Mr. O'Kane stated he is not sure of any distinction among the State Routes that all function as arterial roadways even though lanes are different widths and Burnt Store Road is a County arterial. **Commissioner Cummings** suggested language be added under the definition for receiving zones that New Community Rural Communities located on a certain road classification or adjacent to the Urban Service Area. Mr. Cookingham stated it would be difficult to define the specific conditions. **Chairman DeBoer** reminded the Board that the ordinance would not be adopted at this public hearing and announced public input procedures. Robert H. Berntsson, of the McKinley, Ittersagen law firm, appeared as a member of the community and wished Attorney Lee the best in her future endeavors; as City Attorney for the City of Punta, stated the Council approved a letter on June 16, 2004 requesting deletion of Section 3-5-434(b) thereby excluding the City from the ordinance's applicability and to continue working with the County on joint planning issues through interlocal agreements; as an attorney representing various clients who will be effected by the ordinance, expressed disappointment that the ordinance would not be adopted today since it is better than the existing TDU ordinance; the proposed ordinance has too many caveats and limitations to achieve community goals i.e. the ordinance is trying to do too many things - it recognizes the ability to shift density, a desire to preserve environmental lands, reduce platted lots, and a tool to use with the no net increase in density; the ordinance creates conflicting goals and desires and is unworkable in some areas; the ordinance does not clearly indicate that a sending zone might retain some density; the development right definition appears to be taking away vested rights from property owners; provided waiver language to be added to the ordinance giving the Board discretion to review any transfer to decide compliance with the intents, goals, and technical requirements; and encouraged the Board to move forward with adoption of an ordinance. Andy Dodd, of Peninsula Property, presented a June 22, 2004 letter addressed to the Board for the record; acknowledged the potential for four communities located in the south and southeastern sections of

the County on which 8,000 density units, based on one unit per acre, would be transferable; stated the units need to be transferable at an affordable price to promote economic growth; suggested the 80' x 120' lots within the Urban Service Area (according to the proposed ordinance) be transferable at \$10,000 each; advised it would be in the County's interest to provide affordable transferable density when it gets ready to retire density units; opined the ordinance as drafted would create a growth moratorium for 10 years; and encouraged the Board to preserve affordable density. Geri Waksler, of the Moore and Waksler law firm, appeared on behalf of numerous developers and property owners who would like to see their land used as sending zones; requested a rationale for the revised definition of development right and an example from staff on how the revised definition will be implemented; agreed with Attorney Berntsson on the need to adopt a new ordinance; stated the ordinance should expand the definition of sending zones to allow for lots or properties within the Urban Service Area, to clarify the surplus density on developed lots might be banked, and receiving zones to include land outside of the Urban Service Area; a provision should be included to allow a sending zone to retain rights to manage and retain mitigation rights on the property and non-residential development to allow rural living at something less than one unit per 10 acres; the County needs to consider the long-term economic impact of taking all of the property off of the tax rolls; the ordinance, as written, might increase density in the long term because a developer will be given the right to increase density that they would be paying at \$3,500 or \$3,700 per unit and the Land Acquisition Trust Fund monies would be used to buy environmentally sensitive land that has much less density than what was given to the developer; recommended the Board adopt the ordinance with the waiver language suggested by Attorney Berntsson; and move forward quickly to address remaining issues. Daniel Delisi, of the Bonita Bay Group, commended the Board on its proactive approach to change the form of development in the County; stated he is uneasy with the proposed ordinance since it prevents any transfer i.e. not being able to use environmentally sensitive land as a receiving area; the ordinance needs to be clarified and revised to make it more workable; agreed the ordinance is trying to be all encompassing and it should address fewer issues; recalled Board Members are split on reducing density County-wide and the primary intent of the ordinance should be on

changing the form of development from platted areas to larger planned development areas; the primary method of decreasing density might be achieved through public acquisition of lands; pointed out restriction on residential development in the Airport Commerce Overlay District would eliminate 3,500 units off of the tax rolls; timing is an essential issue in transferring density on large tracts of land especially when a Comprehensive Plan amendment is necessary and the unknown factor of the amount of density that would be given to a developer i.e. the Devonshire development where the Future Land Use Map category allowed 900 units and 350 units were requested; opined it is too much of a risk to transfer density at the time of a Comprehensive Plan amendment; and encouraged the Board to direct staff to make transfers at a time when the actual development density is known i.e. Final Plan Approval; pointed out Collier County, through their TDU ordinance, makes the transfer at the time the issue is applied; expressed appreciation for allowing public input at this time and hopefully more chances will be provided to work on the ordinance. Larry Hudson, of Hudson Land and Cattle, pointed out very little has been heard on the impact to property owners outside of the Urban Service Area; agriculture and the lands are investments; the proposed ordinance would place an undue burden on property owners outside of the Urban Service Area by creating an open space impact fee, devalue agricultural lands, and place agricultural land owners at a disadvantage with lending institutions to borrow funds to stay in business; the ordinance would create an economic discrimination on property owners outside of the Urban Service Area; the ordinance has been drafted by parties that have the potential to inflate the value of transfer units for personal gain at the expense of sending zone unit owners; opined staff has not been completely truthful regarding potential issues concerning the transfer of units i.e. the density would be identified and how it would be used; pointed out the Constitutionality of the ordinance would be in question due to vested rights issues; and suggested the Board not be hasty in adopting the ordinance. Michael P. Haymans, of the Farr law firm, represented agricultural land owners; advised he has been involved in land use and vested rights law for some time, he has litigated vested rights issues at the appellate level, and stated it has been proven that platted lots have vested rights for Development of Regional Impact (DRI) purposes and building purposes; the ordinance fails to recognize that platted lands

outside of the Urban Service Area have vested rights; recalled the County participated in the recognition that property owners have vested rights under the Subdivision Regulations and by not recognizing the right to build upon each platted lot, problems would be caused that the Regulations were established to protect the public from; stated it would be clear and fair to equate a development density unit with a platted lot and eliminate the need for interpretation; recommended paragraph (d), page 15 of the proposed ordinance, be deleted and the following language added at the end of subparagraph (5), page 15, "and each such platted lot shall constitute a land development density unit." Attorney Haymans requested Board direction for staff to work with stakeholders and representatives to address revisions to the ordinance; agreed with Attorney Berntsson's suggested waiver language; and stated, contrary to Mr. Delisi's remarks, the ordinance provides an opportunity to address zoning and Comprehensive Plan inconsistencies on staff's position that the least density is given and recognize the highest of the densities represented by the zoning or Comprehensive Plan. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

RECESS: 11:03 A.M. - 11:08 A.M.

Commissioner Cummings stated he considers Mr. Hudson an expert in his field and recalled a conversation with Mr. Hudson about 8 or 10 years ago on conservation easements versus the need for urbanization and development of agricultural lands for financing those operations; pointed out the intent of the ordinance is not to remove development rights; the ordinance acknowledges development potential based upon the definition of a TDU; agreed the ordinance is a poor tool for overall County-wide density reduction; disagreed with the idea that the ordinance should be simplified to address one issue and have to go through the process and adoption of ordinances for each remaining issue that would probably create more contradictions and increase the complexity; indicated the ordinance provides for transfer of development units to a portion of a parcel, it would only apply to that portion not the entire parcel; agreed with the concern raised about not being able to transfer development rights out of a sending zone within the Urban Service Area i.e. Northwest Port Charlotte, since he has suggested transferring TDUs out of Northwest Port Charlotte for green spaces; there should be

definition language included for sending zones within the Suburban Area to allow transfer of TDUs closer to commercial areas, reduce the trip generation, and allow more estate type development further out i.e. the Hunt property consolidation; does not understand creation of a framework to allow each proposal to be brought to the Board; he does not object to working with the City of Punta Gorda via an interlocal agreement but he wants to see the proposal prior to excluding the City of the ordinance's applicability; and indicated he has already expressed concerns regarding New Towns and Rural Villages. **Commissioner D'Aprile** stated Charlotte County is not the only jurisdiction trying to deal with growth problems i.e. the New York area where he came from is experiencing problems with TDUs on a five-to-one ratio; this ordinance cannot address all of the issues raised during citizens input; the ordinance is too vague and revisions are necessary to address concerns; wondered if an Open Door Policy might be established to allow TDUs to be bought dependent upon circumstances; there are too many variations; and more work is necessary to address the concerns raised this morning. **Commissioner Horton** commended **Commissioner Cummings** for dealing with this in an expeditious and rational manner because he only disagrees on only one issue i.e. the ordinance represents the beginning of a tool to reduce the total number of buildable units or spaces in the County and establish controls to direct where the units or spaces are going through the TDUs; agreed inconsistencies between the FLUM, Zoning Regulations, and Comprehensive Plan need to be addressed in order to create feasible and workable TDUs; opined people do not have the right to rezone for the sole purpose of increasing profitability of a project or property i.e. the highest and best uses are not always the same as in the boat ramp versus condominiums in Cape Haze along Placida Road; he has a concern about allowing TDUs on substandard lots based on one unit per lot to a more desirable area; pointed out land in the middle of Placida is zoned Industrial with no density and questioned the desirability of constructing a boat manufacturer or a glue factory in that location; and commented in support of providing a waiver to deal with these types of situations on an individual basis. **Chairman DeBoer** stated, based upon concerns from the public and Board Members, a workshop needs to be scheduled for a more in-depth review and discussion of the ordinance on a section-by-section basis; an appeal process, in lieu of a waiver, should be established to hear each case and update the ordinance to

reflect the overall policy of the Board; agrees to exclusion of the City of Punta Gorda from the applicability of the ordinance to the extent that the ordinance should not apply to any municipality within the County but it should apply to all subsequent annexations to the City to be addressed by ordinance or an interlocal agreement with the City; and reiterated the need for a workshop. **Commissioner Devos** expressed support for adopting the ordinance today and setting a workshop to resolve issues and concerns; requested the workshop be set as soon as possible; commented in favor of the waiver language suggested by Attorney Berntsson giving the County discretion to intervene in the process; agreed with **Chairman DeBoer** on the applicability of the ordinance on the City of Punta Gorda and future annexations; opined confusion exists due to inconsistencies in the Zoning Regulations and Comprehensive Plan and agreed these issues need to be addressed; expressed a preference for less not more density; agreed with **Commissioner Horton** regarding transfer of development rights on substandard lots; and reiterated support for the proposed ordinance with an appeal process and subsequent amendments to the ordinance. **Commissioner Cummings** reiterated issues relating to placement of TDUs for New Town Rural Villages must be addressed at the workshop in order to gain his support for the ordinance. **Commissioner Horton** agreed. **Chairman DeBoer** recalled a prior intent was to cap the platted lot inventory and now his main goal is to establish properly planned communities throughout the County. **COMMISSIONER HORTON MOVED TO DIRECT STAFF TO SET A PUBLIC WORKSHOP AS SOON AS POSSIBLE TO REDRAFT THE ORDINANCE FOR FINAL HEARING, SECONDED BY COMMISSIONER CUMMINGS.** **Chairman DeBoer** requested everyone, including those who spoke during the public hearing and Board Members, to provide specific changes to the ordinance on a section-by-section basis prior to the workshop. Mr. Cookingham requested a central clearinghouse be established for filing comments. **Chairman DeBoer** stated that can be dealt with later. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Agenda Item Y-3, Consider the adoption of the revised Regional Commerce Park (RCP) Ordinance, this is the first of two Public Hearings for Adoption of the revised Ordinance, thereby electing to Second Hearing to be held on July 13, 2004, at a time other than after 5:00 P.M. in accordance with Section 125.66

Inga Williams, Planner III, reported this public hearing is the first of two required public hearings and requested the Board to set the second public hearing on July 13, 2004, at 10:00 A.M., or as soon thereafter as may be heard or, at 2:00 P.M. as part of the Planning and Zoning Agenda. Ms. Williams advised a review of the strike-out version of the ordinance will be conducted and a description of Regional Commerce Park (RCP) Zoning District changes; explained on October 8, 2002 the Board approved the Comprehensive Plan creating the Airport Commerce Park Overlay District and the Airport Commerce Park Land Use Map designation creating a mixed use district with prohibited uses; the Plan Amendment was challenged but during the challenge process, the Board adopted the RCP Zoning District in October 2003; on February 20, 2004, the challenge was put to rest making the Plan Amendment effective along with the prohibited uses that have been placed in the Zoning Ordinance as special exceptions; staff deleted all of the prohibited uses placed as special exceptions as well as language that referred to Zoning District Sections in the RCP Zoning District and the Land Use Code since the Future Land Use Map (FLUM) must be consistent with existing Land Use Designations and allowed principal uses; the ordinance now has structured categories of revised uses starting on page 15 for Commercial/Retail, Industrial, Distribution, and Office/Government/Institutional; two of the Special Exceptions sections were modified concerning Group Homes and Assisted Living Facilities were changed to include multi-family residential as part of a continuing care retirement facility and the Retail/Sales/Service was changed to Commercial Retail to encompass all uses allowed under the category; multi-family use was deleted from the ordinance except as a part of the continuing care retirement facility under special exceptions; advised the settlement agreement between the County, Arnold, and Vetter, referenced on page 11, paragraph (g)(2)(a), removed some requirements for development of County-wide economic development and design standards for clarification; some definitions relating to the Airport Service Area have been modified; definitions for a building trades contractor, continuing care

retirement facility, and wholesale business were added to the ordinance; the definitions for primary arterials and collector streets have been deleted; part "ii" was added to the definition of the Developments of Countywide Economic Impacts requiring at least 75% of quality jobs be created and maintained; a clause was added under Categorization of Uses that "(a)ll uses must be conducted in fully enclosed buildings" and staff desires the clause be changed that "(a)ll repair, construction, and manufacturing uses must be conducted in fully enclosed buildings"; some of the residential setback and buffer requirements in the tables were modified to exclude residential and to require setbacks from all residential outside of the Airport Overlay District since Residential was removed as a category; setbacks for structure heights were clarified to "in not excess of 60 feet"; the paragraph on loading and building services to be placed at the rear of buildings was removed; some of the setbacks for prohibited materials for fences as well as building and massing form were changed from 400' to 500'; staff received a request from the Economic Development Department to change the name of the ordinance to "Enterprise Charlotte Airport Park Zoning Ordinance" and to remove all figures in the ordinance that give the impression that the Spanish style is the preferred style with a reference that the preferred design and building standards would be set out in the Economic Development Marketing Plan; advised requests were made at the Planning and Zoning (P&Z) Board hearing that a navigation easement be placed over all property in the Park and staff recommends denial as well as an increase from 60 days to 100 days to distinguish non-residential uses to be considered as non-conforming on occupational licenses; and concluded her presentation by offering to answer questions. **Chairman DeBoer** opened the public hearing. Attorney Waksler reported she addressed the change on page 15, line 31, that "(a)ll uses must be conducted in fully enclosed buildings" before the P&Z Board and it was moved from page 16, line 22, where it initially modified Light Manufacturing Processing and Assembling since it created an inconsistency in uses allowed i.e. Heavy Machinery Equipment Sales, Lumber and Building Supply, Farm Equipment Sales, Garden Shops, and Car Washes that cannot be conducted in fully enclosed buildings and staff has proposed a modification to the language to clarify uses that must be conducted in fully enclosed buildings to eliminate the inconsistency. Attorney Waksler indicated support for adoption of the ordinance with that

clarification. Gary Quill, Charlotte County Airport Authority Executive Director, appeared on behalf of the Authority and pointed out language in the Recital "directed the comprehensive planning of an area including and surrounding the Charlotte County Airport to be designated for commercial and light industrial uses that would support focused economic development efforts" but group home facilities, adult congregate living facilities, nursing homes, and multi-family residential are allowable Conditional Uses and these are not commerce or compatible uses around the Airport; advised the Authority has received numerous noise complaints regarding Runway #1533 that has an issue with non-compatible residential land use just off of Jones Loop Road; if group home facilities, adult congregate living facilities, nursing homes, and multi-family residential are allowed, residents and owners of these facilities may pressure the Airport into alter existing flight patterns; a resolution was adopted that the Airport Authority objects to any kind of zoning that would allow residential uses or structures, temporary or permanent of any kind, as it is not appropriate or compatible with the Airport operation. Mr. O'Halloren expressed the understanding that residential and multi-family had been eliminated, opined nursing facilities are not appropriate for this District, stated airports across the Country have been closed down due to noise complaints from residential development in the last 50 years, recalled a newspaper article of about a month ago regarding the \$5.4 million allocated to Sarasota County Airport of which \$1.9 million is to further noise mitigation measures to protect nearby residents, two days a newspaper article indicates the State is threatening legal action regarding location of a school adjacent to the Titusville Airport property, suggested the elimination of all residential and multi-family residential development and require abrogation easements from all new tenants in favor of the Airport, and stated planned development should be used for the Airport Commerce Park District. Attorney Berntsson appeared on behalf of Richard Vetter and the Charlotte County Park of Commerce parties to the settlement agreement with the County as a result of the plan amendment challenge, stated paragraph 3-9-51G(2)(a) indicates that any property may be developed in accordance with the ordinance or under terms of the settlement agreement; the ordinance should read that the RCP property is subject to this ordinance except property that is subject to the settlement agreement; offered to provide revised language; and appeared on

behalf of a practitioner that uses the Zoning Code on a daily basis by stating all of the definitions should be placed in the overall definition section that applies to everything instead of placing definitions in several sections of the Code, the definition of the continuing care facility should be included in the front section of the Zoning Code, and recognize other sections of the Code where the use is appropriate. Attorney Berntsson stated Mr. Vetter's intention is that the ordinance does not change the terms of the settlement agreement and the parties might look forward to appropriate development of the property. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.** Commissioner Cummings agreed group home facilities, adult congregate living facilities, nursing homes, and multi-family residential should be excluded from the District except possibly on the Regent Road/Piper Road project; expressed concern about the radius of the allowed commercial services to the Commerce Park and stated supporting services should be to the Commerce Park; pointed out a portion of Charlotte Ranchettes is adjacent to a runway; and suggested restrictive abrogation requirements be added as part of the building process to put potential purchasers or developers of this property are put on notice. Commissioner Horton commented in support of excluding all residential development including group home facilities, adult congregate living facilities, and nursing homes from the Commerce Park; requested confirmation that "Commercial/Retail developments containing one hundred thousand (100,000) or more square feet may be granted as a conditional use by way of special exception as provided in subsection 3-9-51(e)(2)" on page 16, and that provides the Board with the ability to deal with these uses on an individual basis. Ms. Williams responded affirmatively and stated the Board might place conditions on the development or deny it entirely, such as an outlet mall. Commissioner D'Aprile opined excessive residential development in the Airport area will close down an airport, expressed opposition to any residential development in this area, and requested clarification from Commissioner Cummings on the parcel he wants excepted from exclusion. Commissioner Cummings stated the golf course area with possibly a hospital and an accessory adult congregate living facility or longer-term care facility. Commissioner D'Aprile expressed awareness of the hospital but not the longer-term care facility. Chairman DeBoer stated the intention of the ordinance seems to have changed from exclusion

of all residential and address retail and grandfathering issues to include numerous sections; he will have an opportunity to catch up for the second public hearing; agreed with the exclusion of all residential from the Commerce Park; expressed uncertainty if a special exception might be done for the one parcel and expressed a preference for not allowing convalescent care outside of the hospital first. **(Board consensus on not allowing convalescent care outside of the hospital first.)** **Chairman DeBoer** stated he would need to review the sections regarding retail prior to making comments; grandfathering still needs to be reviewed since there are a couple of existing family owned businesses i.e. the asphalt plant; and requested Board Members consult with the County Attorney and County Administrator prior to the next public hearing on the application of the ordinance on all government facilities i.e. he thought this should be applicable to government facilities. **(Board consensus on the applicability to government facilities.)** **Commissioner Devos** commented in support of grandfathering existing businesses and exclusion of all residential development; requested staff incorporate Attorney Berntsson's suggestions on the definitions; agreed with Mr. O'Halloren's suggestion on the abrogation easements in favor of the Airport; and stated she can foresee problems when and if larger planes are allowed and the Airport expands. **Commissioner Cummings** suggested schools be excluded and grandfathering should exclude residential uses such as the camp ground. Ms. Williams responded by a negative head shake. Ms. Williams requested the second public hearing be set on July 13, 2004 at 2:00 P.M. or as soon thereafter as it may be heard. **COMMISSIONER HORTON MOVED FOR APPROVAL TO SET THE SECOND PUBLIC HEARING TO CONSIDER ADOPTION OF THE REVISED REGIONAL COMMERCE PARK ORDINANCE ON TUESDAY, JULY 13, 2004 AT 2:00 P.M. OR AS SOON THEREAFTER AS IT MAY BE HEARD, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

Agenda Item Y-4, Consider adopting an Ordinance amending the Regulations regarding Access and Screening enclosures for Dumpsters, Compactors, and Recycling Dumpsters

James Thomson, Environmental Extension Services Director, tried to start a power point presentation of the existing ordinance and proposed revisions. **Chairman DeBoer** opened the public hearing. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC**

HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-041, SECONDED BY COMMISSIONER D'APRILE. Chairman DeBoer stated this would be remembered as Mr. Thomson's best presentation and the Board might be faced with more staff alleging technical difficulties in anticipation of Board approval. Mr. Thomson pointed out the presentation is ready. CALL ON THE MOTION: DECLARED UNANIMOUS. Chairman DeBoer and Commissioner Devos recalled Mr. Thomson made a presentation to the Board on a prior occasion on this ordinance.

Agenda Item Y-5, 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 within the boundaries of the Unit

Chairman DeBoer announced the ordinance and opened the public hearing. COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-042, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

Agenda Item Y-6, 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

Judy Hunter, Municipal Services District Representative, stated the Board just approved the same type of request for South Burnt Store Street and Drainage Unit and advised funds derived from the Unit would be used to implement and construct the Community Plan. Ms. Hunter recalled the Board accepted a Community Plan on August 27, 2002 prepared by an outside consultant; an advisory committee was established to oversee the Plan implementation; the committee met on several occasions and on December 10, 2003 a motion was made to send a letter to this Board, the County Attorney, and County Administration requesting establishment of a separate MSBU specific to implementation of the Community Plan; on February 6, 2004 the letter was sent to the parties and subsequently received; as part of the December 2003 motion, and in compliance with the Board's desire to minimize MSBUs, it was stated that it would be acceptable if the

Board chose not to create an MSBU specific to the Community Plan and the committee would be satisfied with amending the existing Street and Drainage Unit to include the tasks of implementing and constructing the Community Plan. Ms. Hunter expressed uncertainty of the committee's desire at this stage; reported an MSBU specific to the Community Plan cannot be established today since the uniform form method of collection was not advertised prior to December 31, 2003; in the 2004/05 Budget Work Program for the Street and Drainage Unit, there is \$20,000 specifically allocated to the St. Paul Lineal Park (this is not park site it is road right-of-way) to create a pedestrian park at that location and provide 4,260' of water view vista; if the existing Street and Drainage Unit Ordinance is not amended today to include the implementation and construction of the Community Plan, she believes that Deputy County Attorney Brendan Bradley would advise that it is not legally defensible to spend the \$20,000; explained the \$20,000 and another \$50,000 is in the budget, the Street and Drainage Committee approved the budget including the \$20,000 for the St. Paul Lineal Park and Extension at the south end of St. Paul; the \$50,000 is unencumbered and not allocated to any specific project; the desire to create a separate MSBU stems from more clear cut tracking of expenditures relating to the Community Plan; she has explained a third MSBU would be a duplication of the Street and Drainage MSBU on the tax bill without detailed project expenditures; the Work Program provides detailed breakdowns for each project; and requested the Board listen to the public and make a decision. Denny Curtis, South Gulf Cove Homeowners Association President, stated mixed signals have been received from staff and the Board on reducing the number of MSBUs or that no new MSBUs would be created; the committee was faced with two issues: incorporate the Community Plan into an existing Street and Drainage MSBU or, as it has long desired, establish a separate MSBU to control and track the funds specific to the Plan; the consensus of the leadership has been and continues to be that a separate MSBU should be established for the Community Plan; stated the people need to know the Board's direction on MSBUs; and recommended a separate MSBU be established for the Community Plan. Richard Redican, South Gulf Cove Advisory Committee Vice Chairman, advised Ms. Hunter skipped the January 28, 2004 meeting and distributed the minutes; pointed out Mike Post made it clear that the Advisory Committee's preference to have a separate MSBU to fund the Community Plan; the Advisory Committee was advised that would

not occur based upon the Board's decision to limit and reduce the number of MSBUs; the motion was made on December 10, 2003 to send a letter to the Board advising of the Advisory Committee's preference for a separate MSBU for implementation of the Community Plan, and if not, then the Advisory Committee would accept the Community Plan funding as part of the Street and Drainage Unit allocation; part of the motion was that if the Community Plan was to be funded out of the Street and Drainage Unit, the Community Plan should be incorporated into the Ordinance effective June 2004; he had no idea until viewing the agenda on the County website that this public hearing had been set; and reiterated the Advisory Committee's continued preference for a separate MSBU. Sandy Slater, South Gulf Cove Advisory Committee Chairperson, agreed with everyone's remarks; recalled the Committee was established in June 2003; in October 2003 the Committee approved language written by Ms. Hunter for a new MSBU and it was forwarded to the County Attorney's Office; Attorney Bradley attended the December 2003 Committee meeting when they were informed that the Board desired to modify the Street and Drainage MSBU, reduce the number of MSBUs within the County, and there was a tentative plan to take road maintenance out of the Street and Drainage MSBU and move it to a West County Maintenance contract with the drainage work to be moved to the Stormwater Management MSBU thereby leaving the Community Plan as the only project in the original Street and Drainage MSBU; recalled at the January 2004 Committee meeting that discussion was held on the funds being placed in the Street and Drainage Unit dependent upon Board direction; the Committee would prefer a new MSBU with a second choice to modify the existing Street and Drainage Unit and incorporate the Community Plan; the Committee requested a change in the name to reflect the Community Plan; if the Board directs incorporation of the Community Plan into the Street and Drainage Unit, she is confident that the MSBU is very capable of working with the Committee on funding issues; recommended the Board approve the proposed ordinance amending the Street and Drainage Unit to proceed with work in October 2004 on the lineal park; and stated she would take the issue of the new MSBU back to the Advisory Committee if the Community Plan is not incorporated into the Street and Drainage MSBU. Gary Kennedy, a South Gulf Cove homeowner, opposed using the \$20,000 for something other than for which it was collected, stated use of the money has not been voted on at a homeowners meeting, and questioned the source of

the \$50,000. Walt Graham, a South Gulf Cove resident since 1978, stated he formerly served on the Homeowners Association and Chairman of the Street and Drainage MSBU Committee; he has concerns regarding MSBUs Countywide; the South Gulf Cove Street and Drainage MSBU has worked diligently and developed work programs for replacement of drainage pipes prior to paving and canal maintenance; the people want a stand alone MSBU for accountability regarding the Community Plan; he is concerned about reducing the number of MSBUs because they work for fair and just taxing based upon public input; he does not see a problem with establishing a third South Gulf Cove MSBU for the Community Plan; and encouraged the Board not to eliminate MSBUs. Mike Post, a member of the South Gulf Cove Advisory Committee for the Community Plan, a member of the South Gulf Cove Street and Drainage MSBU, and a member of the West Charlotte Stormwater MSBU Committee, stated everything that has been said is correct; the policy, suggestions, and recommendation of the Advisory Committee is to establish a separate MSBU and failing that, as stated during the December 10, 2003 meeting, direction would be preferred to allow some of the Work Program to move forward; no one has expressed opposition to what the Advisory Committee wants to do concerning the Community Plan but funding is necessary; people in South Gulf Cove are astute about funding, expenditures, and the dollar value for work performed; a dilemma exists on spending money available by making a change in the MSBU ordinance to accept the Community Plan or go back to the drawing board to initiate another MSBU; ideally, at least some of the Work Program would be accomplished with existing funds; then a mechanism might be identified to allow the Advisory Committee to generate funds for implementation of the Community Plan; the South Gulf Cove Advisory Planning Committee is a formal committee and the South Gulf Cove Street and Drainage Committee is an informal committee and a problem exists with the formal Planning Committee reporting to the informal committee making the final approval prior to going to budget and clarification is needed on this aspect. Grace Amodeo stated people are confused regarding MSBUs and recalled the MSBUs for dredging projects are to be consolidated into one. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.** **Commissioner Cummings** pointed out South Gulf Cove residents have indicated their desire to implement the Community Plan and their wish for accountability of expenditures; he does not want to get side

tracked because of administrative procedures through Public Works; there are more tangible issues regarding a formal committee reporting to a informal committee but it still hinges on the type of relationship and trust between residents and the County; stated he is inclined to approve the ordinance; and for Ms. Hunter to make clear budget presentations on the Work Programs. **Commissioner Devos** advised she has heard a lot of concern about eliminating MSBUs and requested the number of MSBUs. Brendan Bradley, Deputy County Attorney, reported 57 MSBUs. **Commissioner Devos** stated there is a desire to consolidate some of the MSBUs to achieve better efficiency on road maintenance in West County after completion of paving programs; this is the first time she has witnessed consternation from South Gulf Cove residents because there has been a high level of commitment and cooperation for improving and maintaining the community; commented in support of approving the proposed ordinance in order to move forward with the Community Plan; and expressed support for creating a separate if MSBU if that request is brought back by the Advisory Committee for next year. **Commissioner Horton** agreed with most all of the comments; stated \$20,000 has been allocated for the Community Plan; recalled MSBUs and MSTUs were created in the 1970s to address special needs; he considers Community Plans special needs of specific areas within the County; questioned the need for three MSBUs in South Gulf Cove, with three administrative costs, when technology today can track expenditures and payments and reduce administrative costs; and commented in support of approving the ordinance. **Chairman DeBoer** stated residents have indicated the primary issue is accountability, opined creating more MSBUs will not fix the problem, and commented in support of approving the ordinance. **COMMISSIONER CUMMINGS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-043, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

Agenda Item Y-7, 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

Ms. Hunter reported the Grove City Street and Drainage Advisory Committee has requested amendment of the ordinance to use funds derived from the MSBU for beautification and landscaping of the

rights-of-way and offered to answer questions. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-044, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Chairman DeBoer reminded Board Members that the afternoon session will commence at 1:50 P.M. to consider Agenda Items L-5, X-2, X-3, and X-4 and suggested the resolution for Agenda Item X-2 might be introduced and moved quickly since the marketing plan was included in the packet.

RECESS: 1:15 P.M. - 1:55 P.M.

(Commissioner Cummings was not present for this portion of the meeting. Assistant County Attorney Louis Whitehead replaced County Attorney René Francis Lee and Deputy Clerk Karen S. Mitchell replaced Deputy Clerk Diane J. Nice for the remainder of the meeting.)

ITEM FOR DISCUSSION (Continued)

L. General Services

Agenda Item L-5, Request a Waive Bid Procedure for File #04-345, CourtSmart Recording System and Award to CourtSmart Digital Systems, Inc., for a total cost of \$108,900

Kimberly A. Corbett, Purchasing Director, said she requested Mr. Hayes be present to address the Board's questions so this item can be moved forward. **Chairman DeBoer** asked if this was replacing court reporting. William Hayes, Senior Deputy Court Administrator, said yes. **Chairman DeBoer** asked if this function was funded by the state. Mr. Hayes clarified the actual court reporting yes but not the computer systems which were a County requirement under the new statutes coming out. **Chairman DeBoer** asked the type of equipment a court reporter uses. Mr. Hayes explained court reporters were a vanishing breed and the digital court reporting system eliminates the need for the physical court reporter. **Chairman DeBoer** opined passing the burden of the cost onto the County was toying with the definition of technology based on the new Article V Revision VII. Mr. Hayes said he didn't think so. **Commissioner Horton** asked the costs

for a court reporter. Mr. Hayes said it was an hourly rate for the time a person was needed in the courtroom and a per page charge for transcripts. **Commissioner Horton** asked if there was a cost comparison. Mr. Hayes responded the County Court alone was budgeted for about \$100,000 and the Circuit Court was slightly higher. (**Commissioner Cummings was present for the remainder of the meeting.**) **Commissioner Horton** asked who manages the equipment. Mr. Hayes responded the state was funding the cost for a person to sit in the control room and monitor all the courtrooms. **Commissioner Horton** summarized the costs over the \$87,912 budgeted would be paid by the state. Mr. Hayes said yes. **Chairman DeBoer** stated he's still really uncomfortable with this, he felt this was just another way the state was passing costs onto the County, this should have been brought to the County to be bid out and since the savings were going back to the state then the state should be paying. **Commissioner Devos** asked who administers this system. Mr. Hayes responded Ms. Caron Jeffries was the Court Administrator for the five county Circuit Court and her salary was paid by the state. **Commissioner Devos** said if the state was given the authority they should have to pay and opined it wasn't right that the County has been put in this situation. Mr. Hayes read from F.S. Chapter 29.008(2) which deals with County funding of court-related functions and specifically computer systems and equipment to support the operations and management of the state court system. **Commissioner D'Aprile** said his only problem was this didn't go out for bid and asked about expected maintenance costs. Mr. Hayes reported Collier County has had the system for about one year without any problems. **Commissioner D'Aprile** asked when this would be implemented. Mr. Hayes said immediately. **Commissioner Horton** asked who paid the court reporting contract before they ran out of court reporters. Mr. Hayes said the county. Tommy Q. White, Chief Deputy Board Services, clarified as of July 1, 2004 it would be the state's responsibility to pay for court reporters. **Commissioner Horton** summarized that if they buy the equipment then the state was off the hook. **Commissioner Devos** noted Florida Statute says the County was responsible and asked if that was being amended as of July 1, 2004. Mr. Hayes said no. **Commissioner Devos** said the only reason she will support this was because Mr. Hayes was telling them Florida Statute requires it. Mr. Hayes agreed. **Commissioner Devos** said with that in mind then it was their responsibility to get this system at the right and best cost,

she would never again support something like this no matter what the Florida Statutes say and she resented being forced to pay for this. **COMMISSIONER DEVOS MOVED APPROVAL OF AGENDA ITEM L-5, SECONDED BY COMMISSIONER CUMMINGS.** Commissioner Cummings said this incident shows an inherent flaw in the system and the state didn't do a thing until they figured out they'd have to pay for it which was the wrong way to do business but law says we have to pay for this. **Commissioner Horton** stated he can't support this. **Chairman DeBoer** said this was really tough to deal with. **Commissioner D'Aprile** stated they were responsible for 'new technology' and opined they have no choice but agreed it certainly wasn't fair. **CALL ON THE MOTION: COMMISSIONERS CUMMINGS, D'APRILE AND DEVOS VOTED "YES" AND CHAIRMAN DeBOER AND COMMISSIONER HORTON VOTED "NO." MOTION CARRIED: (3:2).**

IX. PLANNING AND ZONING AGENDA

DD. 2:00 P.M. PETITIONS - PLAN AMENDMENT AND REZONINGS (These items continued from the June 8, 2004 BCC Meeting.) (Proof of Publication was in order.)

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.

(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses.) (Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.)

Agenda Item DD-1, PP-04-03-04, District II (Proof of Publication was in Order.)

Buddy Braselton, Planner II, explained the application was for Preliminary Plat approval for the 12 commercial lot Young Commercial Subdivision located on about 30 acres on Jones Loop Road, and staff and the Planning and Zoning (P&Z) Board recommend approval with three conditions:

1. A five-foot wide "No Access Easement" be depicted along the entire frontage of Jones Loop Road in addition to the 100 foot wide private roadway.

2. A street name acceptable to Charlotte County shall be depicted on the Final Plat.
3. The Planned Development (PD) zoning must be approved by the Board of County Commissioners prior to approval of the final plat.

John Swen, Charlotte Engineering & Surveying, Inc., appeared on behalf of applicant and concurred with staff's report and recommendations for approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-03-04, YOUNG COMMERCIAL SUBDIVISION WITH THREE (3) CONDITIONS, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

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

Agenda Item DD-2, DRC-PD-02-02, District II (Proof of Publication was in Order.)

Mr. Braselton explained the proposed resolution was for the Final Detail Plan and was the same preliminary plat just heard for Young Commercial Subdivision, this was a Planned Development (PD) and the Development Review Committee (DRC) was recommending approval with the conditions as outlined in the resolution. Mr. Swen appeared on behalf of applicant and concurred with staff's report and recommendations for approval. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. COMMISSIONER HORTON MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-108 APPROVING DRC-PD-02-02, FINAL DETAIL PLAN FOR YOUNG TRUCKING, INC. TO DEVELOP THE YOUNG COMMERCIAL SUBDIVISION, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

VI. REGULAR AGENDA

X. Regular Business

Agenda Item X-2, Economic Development - Present and adopt the Marketing Plan for Enterprise Charlotte Airport Park and other County-wide commercial areas

COMMISSIONER HORTON MOVED APPROVAL TO ADOPT RESOLUTION #2004-109 FOR THE MARKETING PLAN FOR ENTERPRISE CHARLOTTE AIRPORT PARK AND OTHER COUNTY-WIDE COMMERCIAL AREAS, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.

Agenda Item X-3, County Attorney - Set an Executive Session in the matter of Charlotte County vs. IMC for Tuesday, July 6, 2004 at 10:00 A.M. in the County Administrator's Conference Room

COMMISSIONER D'APRILE MOVED APPROVAL TO SET AN EXECUTIVE SESSION IN THE MATTER OF CHARLOTTE COUNTY VS. IMC FOR TUESDAY, JULY 6, 2004 AT 10:00 A.M. IN THE COUNTY ADMINISTRATOR'S CONFERENCE ROOM, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.

Agenda Item X-4, County Attorney - Approve Change Order #2 to Contract #04-026, Health Department HVAC Replacement, with Air Mechanical & Service Corp., to increase the contract in the amount of \$4,745 with a revised total contract of \$117,099

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

VIII. PRESENTATION AGENDA

None.

IX. CITIZEN INPUT - ANY SUBJECT

Mike Post thanked the Board for approving the earlier ordinance, commented on the issues of trust with the advisory committee, said although South Gulf Cove was an infill area the residents don't want to reach buildout and asked the Board for help in keeping density down in their area.

Jack Donkel reported there had been a delay in connecting the access roads and it will be re-bid. Mr. Donkel distributed a handout on Englewood signs that misdirect people to Old Englewood which is not in Sarasota and asked the Board for help in correcting this signage problem.

AA. County Administrator

Bruce D. Loucks, County Administrator, reported the Board's calendar was clear for 1:00 P.M. on July 6, 2004 for a public workshop on Transfer of Density Units (TDUs). **COMMISSIONER DEVOS MOVED TO DIRECT STAFF TO SCHEDULE A PUBLIC WORKSHOP ON TRUS ON JULY 6, 2004 AT 1:00 P.M., SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.** Mr. Loucks referred to his memorandum regarding the status of the discussions with Lennar regarding Murdock Village, said he wants to set-up a workshop in late July to bring all the items together, Lennar has been very cooperative, they'd had good meetings and they were making good progress. **Commissioner Horton** stated he didn't feel comfortable waiting until the end of July to know what the pieces of puzzle are because the Board might end up deciding they need to start over. Mr. Loucks responded Lennar was being very cooperative and he would be back in two weeks with an update to the Board. **Commissioner D'Aprile** said money was the key item, the Towne Center was an important concern as well, he won't accept it as being part of the last phase and opined it makes more sense to see it happen during the first two phases. Mr. Loucks said the timing of the Towne Center has been addressed, and Lennar was aware the roads, curbs and other such items will be part of the first phase. **Commissioner D'Aprile** said he wants to be kept abreast of what's happening during these negotiations. Mr. Loucks responded he will brief each of the Board members individually on an ongoing basis. **Commissioner Cummings** said he would be surprised if Lennar came up to where they needed to be and if Mr. Loucks felt these necessary changes were possible fine but if not then don't waste his time. Mr. Loucks reiterated the timing of the Towne Center has been addressed but a location more to the east was still being discussed. **Commissioner Cummings** stated Lennar needs to understand that when the Board sent it back it was with the understanding that having the Towne Center on SR 776 just wasn't going to fly and he was going to be a tough sell if the proposal comes back with it being on SR 776. **Commissioner Devos** said based on the initial

report Lennar was so far short of what the Board wants she felt there were anxious feelings especially regarding the market for commercial development in that area, she has doubts as to whether Lennar can satisfy the Board's key issues, Lennar needs to negotiate more quickly and asked if the workshop has been scheduled. Mr. Loucks said no, clarified what they wanted to do was get Lennar to the table with their detailed plans, reiterate where they were currently and talk about next steps. **Commissioner Devos** stressed time was very critical because the Board needs to know what their options were. **Chairman DeBoer** stated he agreed with all the Board member's concerns, he was very concerned because the Board intentionally set a 30-day time limit to come back with something in an effort to try to create urgency in this process but it just doesn't seem to work and the Board's questions need to be answered.

BB. County Attorney

Louis Whitehead, Assistant County Attorney, stated he had no agenda items. **Chairman DeBoer** stated Attorney Lee's expected departure was August 10, 2004, they need to move quickly to fill that position, Ft. Myers was going through a process right now using Bob Slavin who was with a head hunter firm, after Attorney Lee's discussion with Mr. Loucks the conclusion was the Board should direct Administration to use Mr. Slavin to begin our search and obviously Administration will have to bring back a contract to the Board at their next meeting but they need to authorize them to go ahead and start proceeding on this. **COMMISSIONER DEVOS MOVED APPROVAL AS SUGGESTED BY CHAIRMAN DeBOER, SECONDED BY COMMISSIONER HORTON.** **Commissioner Cummings** asked if this was the same gentleman the Regional Planning Council (RPC) used for their executive director search. Mr. Loucks said he didn't know but he can find out. **Commissioner Horton** asked if August 10, 2004 was contractually correct. **Chairman DeBoer** clarified it just barely exceeds the required 45 days. **Commissioner Horton** said he has some mixed emotions regarding the search but he would share them at a later time and he has two weeks to work on this. **Chairman DeBoer** responded if there were concerns he would appreciate hearing them now. **Commissioner Horton** agreed and said he has always questioned whether it might be more efficient to have their legal work handled by an outside firm instead of in-house but he has two weeks to work on this so he will share any further thoughts with

the other Board members via memorandum. **CALL ON THE MOTION: DECLARED UNANIMOUS.** **Chairman DeBoer** said if the Commissioner could find some information that shows counties with a legal staff of this size and legal questions of the magnitude they have that were being done externally he should give them a comparison. **Commissioner Horton** responded that's what he intended to do and if he can't come up with something he would leave it alone.

CC. Commissioner Comments

Commissioner Devos commented on the first Children's Services Council meeting where she was elected vice-chair and on the recent Indigent Health Care workshop. **Commissioner D'Aprile** commented on his work with the Marine Advisory Committee (MAC) regarding closing the Tom Adams Bridge boat dock, referenced the letters he'd provided to each of the Board members and said he needed Board direction on whether to continue or let this issue go. **Commissioner Devos** recalled the decision had been made and said he should go back to MAC and tell them that. **Commissioner D'Aprile** said he would send the Board members a memorandum on the possible firestorm that may occur regarding the complex in Deep Creek they discussed at their last meeting because people were really up in arms about it. **Commissioner Horton** said regarding the boat dock they need to do what they think is right, their decision was to close it and **Commissioner D'Aprile** should give it up. **Commissioner Horton** commented on possible boat ramp locations west of the Myakka River, advised staff was working on the options but the land costs were high, there was one property in the middle of Grove City that was back on the market and opined they should look at it again. **Commissioner Horton** reported the Department of Environmental Protection (DEP) was going to officially oppose modification of their permit to the 1980 Stump Pass channel design which means it will close, said he was looking to **Chairman DeBoer** to pick this up for him, opined some lobbying was needed and stated he can't believe DEP would let the pass close only to dredge a new channel 200' down the beach. **(Board consensus for Chairman DeBoer to take this over.)** **Commissioner Cummings** commented on the problem with the Alligator Creek dredging permit, and foster care or home care versus institutionalized care because the latter just doesn't provide the necessary traditional home modeling. **Commissioner Cummings** reiterated his support for the \$200,000 DeSoto County

deal even though he's not happy about it. **Chairman DeBoer** said he was also feeling really uncomfortable about the DeSoto County pipeline deal but he'd support whatever **Commissioner Cummings** decides. **Chairman DeBoer** referred to the email from the County Attorney's Office about authorization to sue over Florida Power and Light's (FPL) subcontractor cutting through one of our pipes, said the damage was \$9,000 and asked the Board members to get their responses back to the County Attorney. **Chairman DeBoer** asked the Board members to get their comments back to him regarding a sign advertising community services. **Commissioner Horton** said he didn't like the one in North Port at all. **Chairman DeBoer** advised their receptionist Bonnie Stoner has been promoted to take Mary Jane Ackerman's vacant position, now the issue was coming up again about the receptionist position moving across the hallway, Board staff steadfastly feels that would disrupt the organization as it works in their office, and he has supported that position but he needs to know one way or the other how each of the other Board members feel about this because he doesn't ever want to see this issue again. **Commissioner Horton** said he agrees the receptionist needs to stay on their side of the hall. **Chairman DeBoer** stated he'd told Mr. Loucks if he felt they need another receptionist across the hallway then he should put it in the budget request and the Board would deal with it. **Commissioner D'Aprile** said he wanted to keep the receptionist as it has been and opined the receptionist has been a great asset. (**Commissioner Devos was not present for the remainder of the meeting due to a doctor's appointment.**) **Commissioner Cummings** opined they have a terrible waste of space upstairs, if they could change the layout it could be good and they might be able to consolidate the positions but agreed they would still need somebody there in the office during the interim. Mr. Loucks clarified they weren't trying take over or upset the current workflow, they were only trying to provide back-up personnel for the front information/reception counter. **Commissioner Horton** agreed with **Commissioner Cummings'** comments regarding wasted space. **Chairman DeBoer** said he would send a copy of an email around to everyone, it dealt with scheduling special meetings for upcoming general zoning issues and the Comprehensive Plan (Comp Plan) amendments related to Murdock Village, there were about 25 zoning items that will all hit around August 10, 2004 and they need to make a decision on how they want to handle these. **Commissioner Horton** said he preferred two separate meetings. **Commissioner Cummings** said

fine, whatever works. **Commissioner D'Aprile** said he was okay with whatever way things were scheduled. **Chairman DeBoer** summarized he would handle it with Administration.

MEETING ADJOURNED: 3:43 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**

djn/ksm