

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

JULY 13, 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 Jenine Thornley and Supervisor of Commission Minutes Caroline W. Lounsbury. The meeting was called to order at **9:00 A.M.**

Chairman DeBoer announced he would like a moment of silence given to three fine citizens who passed away this past week: Judy Bolander, Principal of Kings Gate Elementary School, Allan Wilson, Past Insurance Risk Manager and the first Employee Relations Director for Charlotte County and Pamela Vickers with Charlotte Harbor Animal Hospital.

The **invocation** was given by Dr. Sloan, Palm Tabernacle Ministers, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

Additions:

**Additions to
the Agenda**

Agenda Item Y-6, Set a Board Workshop for July 26, 2004, at 10:00 A.M. to present the proposed Countywide Maintenance Dredging Program and consider the establishment of a West County Paving District. (This Workshop was originally set for July 12, 2004.

Agenda Item Y-7, Discussion and direction regarding refunding the \$92,000.00 lien payment made to Charlotte County by Susan Farr and her

husband Joe Decker for Code Enforcement violations.

Change No. 1 Agenda Item J-1, approve the Stipulation and Resolution adopting the Final Order setting forth both residential and commercial solid waste collection rates for Waste Management Inc. of Florida for the period covering FY 2004/2005, FY 2005/2006, and FY 2006/2007 in accordance with the Recommended Order issued by the duly appointed Hearing Officer.

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

I. SPECIAL RECOGNITION

Employee Recognition:

Bruce D. Loucks, County Administrator, and **Commissioner D'Aprile** recognized the following employees for their service with the County: **Five Years** - Rebecca K. Allen, Tourism Development; and **Five Years** - Nancy J. Grube, Facilities Construction and Maintenance; and **Ten Years** - Susan I. Wood, County Attorney's Office; and **Fifteen Years** - Martha J. Alderman, Charlotte County Utilities; **Fifteen Years** - Gloria J. Destefanis, Charlotte County Utilities; and **Fifteen Years** - Stanley Z. Golembieski, Public Works; and **Fifteen Years** - Christina L. Perin, Community Development; and **Fifteen Years** - Larry E. Reed, Facilities Construction and Maintenance; and **Twenty Years** - Christopher Gleason, Parks, Recreation and Cultural Resources.

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING JULY 26, 2004 AS "AMERICANS WITH DISABILITIES ACT AWARENESS DAY" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. No one was present to accept the proclamation.

Presentation

Commissioner D'Aprile presented the Board with a check in the amount of \$33,176.00 from The Florida Association of Counties Legislative Conference as an Issuance Cost Rebate. **Chairman DeBoer** explained the process of the Commercial Loan Program to the citizens in the audience.

II. CITIZEN INPUT - AGENDA ITEMS ONLY

Ray Tressmer addressed **Agenda Item J-1, Approve the Stipulation and Resolution adopting the Final Order setting forth both residential and commercial solid waste collection rates for Waste Management, Inc., of Florida for the period covering FY 2004/2005, FY 2005/2006 and FY 2006/2007 in accordance with the Recommended Order issued by the duly appointed Hearing Officer** stated for the last three years he has been reviewing the waste hauling for Charlotte County. Mr. Tressmer stated during the term of the contract, his lawyers asked for this document, which couldn't be provided by the County, NBC news requested this document, and they do couldn't be provided with a copy.

III. COMMITTEE VACANCIES

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

Alligator Creek Waterway Advisory Committee

- one (1) volunteer and 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.

Englewood Area Planning Advisory Board

- three (3) volunteers representing Charlotte County, new members to serve two year terms; reappointed members to serve four year terms.

Gulf Cove Street & Drainage Benefit Unit Advisory Committee

- one (1) volunteer, and resident of Gulf Cove, for a three-year term.

Tourist Development Council

- one (1) qualified volunteer, an Owner/Operator for the Tourism Industry positions - Appointment on Agenda.

IV. REPORTS RECEIVED AND FILED

Community Redevelopment Agency Advisory Committee (CRAAC)
Thursday, May 27, 2004 - 10:00 A.M.

Charlotte County-Punta Gorda Metropolitan Planning Organization
- Charlotte County Transit Development Plan, 2005-2014.

V. CONSENT AGENDA

**COMMISSIONER HORTON MOVED FOR APPROVAL OF THE FOLLOWING ITEMS
SECONDED BY COMMISSIONER CUMMINGS 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 15, 2004
through July 6, 2004 in the amount of
\$17,622,815.33

Memorandum #3 Quarterly report unclaimed excess money

Memorandum #4 Excess Funds on Tax Deed Applications

B. Minutes Division

Agenda Item B-1, Approval of Minutes

9:00 A.M., June 8, 2004 Regular BCC Meeting

2:00 P.M., June 10, 2004 CIP Workshop

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

No Items.

D. Administration

Agenda Item D-1

Appoint Kelly A. Shoemaker as Assistant County Administrator at an annual salary of \$84,717.36, a 5% increase.

Agenda Item D-2

Set a Board Workshop for 9:00 A.M., on Tuesday, July 20, 2004, to update the Board on the status of the Murdock Village project.

E. County Attorney

Agenda Item E-1

Set a Public Hearing on Tuesday, July 27, 2004, at 10:00 A.M. or as soon thereafter as may be heard, to consider an Ordinance amending Chapter 2-5, Article VI, Charlotte County Code, the Security Alarm Code (1) amend provisions dealing with the registration of and application of warnings and fines for parcels having multiple structures and/or multiple alarm systems; and (2) to remove the "sunset" provision of the code.

F. Budget Office

Agenda Item F-2

Budget Amendment #04-A42 in the amount of \$36,883.00 to accept the Florida Department of Transportation Grant (Grant #2004-014) on behalf of the Charlotte Alliance for a Safe & Drug Free Community. **Commissioner Devos** thanked staff, commended the Board of Charlotte County Commissioners in being a community partner and thanked the Sheriff for his support.

G. Community Development

Agenda Item G-1

Resolution #2004-110 releasing Certificates of Deposit for road maintenance and reclamation obligations incident to Excavation

Permit #00-EX-13 (MIRROR LAKES, LLC)(Bank of America - Certificate of Deposit No. 910 000 3798 in the amount of \$27,434.73 for road maintenance security purposes and Bank of America Certificate of Deposit No. 910 000 3798 1389 in the amount of \$18,289.82 for reclamation security purposes.

Agenda Item G-2

Resolution #2004-112 DRC-PD-06-3(C)(MM) Major Modification permitting Kings Gate Associates II, Ltd. to construct zero lot line villas on four lots in the Kings Gate Phase 6 Subdivision.

Agenda Item G-3

Resolution #2004-113 DRC-PD-88-4J (MM) Major Modification permitting Riverwood Community Development District to develop Riverwood Activity Center, Phase II.

Agenda Item G-4

Special County Commission meeting on Tuesday, August 17, 2004 at 2:00 P.M. to consider standard zoning related requests and petitions.

Agenda Item G-5, (a)

Final Plat for Coral Creek Club (PP-03-11-05).

Agenda Item G-5, (b)

Accept Letter of Credit #2004-11 for \$417,268.94.

Agenda Item G-5, (c)

Developer's Agreement #2004-038 Coral Creek Club.

H. Economic Development

Agenda Item H-1, (a)

Resolution #2004-114 required by the State's program to participate in Enterprise Florida's Target Industry Incentive.

Agenda Item H-1, (b)

Certain types of qualified target industry businesses.

Agenda Item H-1, (c)

State that the commitments of local financial support necessary will be made available.

J. Environmental Services

Agenda Item J-1

Stipulation and **Resolution #2004-115** adopting the Final Order setting forth both residential and commercial solid waste collection rates for Waste Management, Inc., of Florida for the period covering FY 2004/2005, FY 2005/2006, and FY 2006/2007 in accordance with the Recommended Order issued by the duly appointed Hearing Officer.

K. Facilities Construction and Maintenance

No Items.

L. General Services

Agenda Item L-1, (a)

Start negotiations with the first ranked firm, Public Resource Management Group, Inc., Maitland, FL, for **RFP #04-274, Water and Wastewater Financial Management.**

Agenda Item L-1, (b)

Authorize the **Chairman** to sign the contract after negotiations have been completed.

Agenda Item L-2, (a)

CIP Budget Amendment #04-A041 to the Airport/Taylor Road Intersection Improvement Project and **Budget Transfer #04-046** in the amount of **\$830,977.00** from contingency reserves in the Transportation Trust Fund.

Agenda Item L-2, (b)

Bid #04-264, Airport Road and Taylor Road Intersection Improvements, to General Contracting Services, Inc., of Port Charlotte, FL in the amount of \$2,376,976.09.

Agenda Item L-3, (a)

Deletion of the property inventory items listed for the month of July 2004.

Agenda Item L-3, (b)

Declare the equipment for online auction as surplus property to the County's needs for the month of July 2004, and **authorize** the Purchasing Department to proceed to dispose of these items via an online auction service with Gov-Deals, Inc.

Agenda Item L-4

Guaranteed Maximum Price (GMP) of \$1,528,922.00 to construct Fire Station #1 and **authorize** the **Chairman** to sign the Amendment to **Contract #03-189, Design/Build Fire Station #1** with Wright Construction, Fort Myers, FL, for a Guaranteed Maximum Price (GMP) of \$1,528,922.00.

Agenda Item L-5

Renewal of Contract #02-184, Maintenance & Repair of 800 MHZ Communication Infrastructure, to Motorola, extending the contract from October 1, 2004, through and including September 30, 2005.

M. General Services - Real Property Services

Agenda Item M-1

Resolution #2004-116 authorizing the Chairman of the Charlotte County Board of County Commissioners to execute a County Deed releasing a portion of a twenty (20) foot wide canal maintenance easement located in Lot 24, Block 4464, Port Charlotte Subdivision, Section Eight-Two, in Charlotte County, Florida.

(Owners: Clyde Robert Armstrong, Jr. and Jan F. Armstrong, as Trustees of the Clyde Robert Armstrong, Jr. and Jan F. Armstrong Revocable Living Trust dated July 22, 2002.)

Agenda Item M-2

Resolution #2004-117 authorizing the Chairman of the Charlotte County Board of County Commissioners to execute a County Deed releasing a portion of a ten (10) foot wide utility and drainage easement located in Lot 26, Block 688, Punta Gorda Isles, Section Twenty-Three in Charlotte County, Florida. (Owners: John F. Brennan and Celinda D. Brennan.)

Agenda Item M-3

Resolution #2004-118 authorizing the Chairman of the Charlotte County Board of County Commissioners to approve the exchange of the County's interest in one platted lot for one privately owned lot located within the Murdock Village Redevelopment Area.

N. Human Resources

No Items.

P. Human Services

No Items.

Q. Information Technology

No Items.

R. Parks, Recreation & Cultural Resources

Agenda Item R-1

Developer's Agreement #2004-039 to ensure the construction of the trail head of the Cape Haze Pioneer Trail located in Placida.

S. Public Safety

No Items.

Agenda Item T-2, (a)

Resolution #2004-119 transferring amounts from Reserves for Future Improvements.

Agenda Item T-2, (b)

Budget Transfer #04-047 in the amount of \$29,164.00 to augment funding within the Rotonda Heights MSBU, for projects being done at the request of the committee.

V. Tourism Development

No Items.

W. Utilities

No Items.

ITEMS OF DISCUSSION

F. Budget Office

Agenda Item F-1, Sheriff's request to transfer \$170,000.00 from budgeted retirement contributions to Capital Outlay for the purchase of computer equipment

Chairman DeBoer stated that earlier this year a transfer was made to the Sheriff's office for salary increases, questioned the amount transferred and what is left in the County's Contingency Fund. Ann Navan, Budget Officer the amount of the salary transfer was \$425,000.00 and the amount left in the General Contingency Fund is approximately \$525,000.00. **Chairman DeBoer** expressed concern that whenever monies are found there is always a reason for it to be spent. **Chairman DeBoer** stated there never seems to be any intent to return monies to the County. **Chairman DeBoer** stated he would vote against this item. **COMMISSIONER DEVOS MOVED FOR APPROVAL OF SHERIFF'S REQUEST TO TRANSFER \$170,000.00 FROM BUDGETED RETIREMENT CONTRIBUTIONS TO CAPITAL OUTLAY FOR THE PURCHASE OF COMPUTER EQUIPMENT, SECONDED BY COMMISSIONER D'APRILE.** **Commissioner D'Aprile** stated he appreciates the fact that the Board wants to tighten their belts, but this is not a waste of funding. **CALL ON THE**

QUESTION: COMMISSIONERS DEVOS, D'APRILE, HORTON AND CUMMINGS VOTED "YES" AND CHAIRMAN DeBOER VOTED "NO." MOTION CARRIED: (4:1).

T. Public Works

Agenda Item T-1, Policy pertaining to memorial markers placed within the public right-of-way on County roads

Commissioner Devos stated she certainly supports this policy but is rather curious as to how the County is planning on doing it. Thomas O'Kane, P.E., Public Works Director stated he plans on having a stockpile of the memorial markers at Public Works at a fee of 20.00 each. **Commissioner Devos** stated the marker could be posted for 24 months. Mr. O'Kane stated there are memorials in the County with candles burning causing a potential hazard. Mr. O'Kane stated these situations would be dealt on a one to one basis to be removed. **Commissioner Devos** questioned if the Board should adopt a resolution for removal of these memorials. Brendan D. Bradley, Deputy County Attorney stated that Charlotte County has exclusive rights to remove anything from the public right-of-way. Bruce D. Loucks, County Administrator stated staff would work with the families that have huge memorials set up to transfer them to the new markers. **COMMISSIONER DEVOS MOVED FOR APPROVAL OF A POLICY PERTAINING TO MEMORIAL MARKERS PLACED WITHIN THE PUBLIC RIGHT-OF-WAY ON COUNTY ROADS, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

VI. REGULAR AGENDA

Y. Regular Business

Parks, Recreation & Cultural Resources

Agenda Item Y-1, Request Board action on parking policy at park facilities that provide a boat ramp as an amenity

Laura Kleiss-Hoeft, Parks, Recreation & Cultural Resources Director stated with the increasing demands being placed on the County for water and boat ramp access, the issue of providing parking for all users continues to be a challenge. Mrs. Hoeft stated the issue at present primarily concerns the boat ramp parking at Placida. Mrs. Hoeft stated the current parking

policy at all parks is "first come, first serve." Mrs. Hoeft stated it has been requested by boaters that only vehicles with a trailer should be allowed to park in the facility. Mrs. Hoeft stated that staff's recommendation is the "first come, first serve," parking policy provides a fair and equitable approach to providing parking at boat ramp sights. Mrs. Hoeft stated staff would recommend that additional designated parking be provided for agencies providing emergency rescue and law enforcement support on the water. **Commissioner Devos** stated she has no problem with staff's recommendation, but expressed concern with parking fee for an annual pass. **Commissioner Devos** questioned if the annual pass fee could be prorated. Mrs. Hoeft stated the annual parking pass fee could be prorated. **Commissioner Cummings** stated he has no problem with the "first come, first serve" policy and prorating the annual parking pass fee is a reasonable idea. **Commissioner D'Aprile** questioned if there is any property available for purchase to provide additional parking. Mrs. Hoeft stated the cost for property in the Placida boat area is extremely expensive. **COMMISSIONER HORTON MOVED FOR APPROVAL OF THE "FIRST COME, FIRST SERVE" PARKING POLICY FOR A FAIR AND EQUITABLE APPROACH TO PROVIDING PARKING AT BOAT RAMP SIGHTS AND FOR STAFF TO BRING BACK PRO-RATION FOR ANNUAL PARKING FEES PASS, SECONDED BY COMMISSIONER CUMMINGS.** Chairman DeBoer stated it is appropriate to bring back the discussion for pro-ration of fees. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Commission Office

Agenda Item Y-2, Select, by ballot, a new member to the Tourist Development Council

Chairman DeBoer asked each of the Board Members to complete their ballot and pass it down to Mr. Loucks. **Chairman DeBoer** announced that Kristine Wishard has been chosen. **COMMISSIONER HORTON MOVED FOR APPROVAL OF KRISTINE WISHARD TO THE TOURIST DEVELOPMENT COUNCIL, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

Utilities

Agenda Item Y-3, Set a Public Hearing for August 24, 2004, at 10:00 A.M. or as soon thereafter as may be heard, to consider adoption of the Resolution setting forth the new Utility water,

sewer and reuse rates, fees and charges effective with bills rendered October 1, 2004, for all Charlotte County Utilities customers. The Resolution will set the rates for District I, Charlotte County Utilities Service Area, the Deep Creek Service area and District 2, Burnt Store Service Area

COMMISSIONER CUMMINGS MOVED FOR APPROVAL TO SET A PUBLIC HEARING FOR AUGUST 24, 2004, AT 10:00 A.M. OR AS SOON THEREAFTER AS MAY BE HEARD, TO CONSIDER ADOPTION OF THE RESOLUTION SETTING FORTH THE NEW UTILITY WATER, SEWER AND REUSE RATES, FEES AND CHARGES EFFECTIVE WITH BILLS RENDERED OCTOBER 1, 2004, FOR ALL CHARLOTTE COUNTY UTILITIES CUSTOMERS, THIS RESOLUTION WILL SET THE RATES FOR DISTRICT I, CHARLOTTE COUNTY UTILITIES SERVICE AREA, THE DEEP CREEK SERVICE AREA AND DISTRICT 2, BURNT STORE SERVICE AREA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.

RECESS: 9:50 A.M. - 10:00 A.M.

VII. PUBLIC HEARING AGENDA

Z. 10:00 A.M.

Agenda Item Z-1, Historical Advisory Committee - Consider an ordinance creating a Historical Advisory Committee (Proof of publication was in order)

Mrs. Hoeft stated that on March 9, 2004 the Board of Charlotte County Commissioners approved a plan to manage historical resources in Charlotte County. Mrs. Hoeft stated the Plan included the formation of a Historical Advisory Committee to advise and assist the Board of Charlotte County Commissioners and staff. Mrs. Hoeft stated this ordinance created the Advisory Committee. Mrs. Hoeft state the nine member committee will be appointed by Commissioners and be comprised of six members from historical organizations and three-at-large members with representing disciplines of architecture, history, urban planning, archeology or related disciplines such as American Studies or American Civilization. Mrs. Hoeft stated the primary duties of the Advisory Committee would be to:

- Evaluate and make recommendations where historical markers should be established.

- Review development/construction projects with historical significance.
- Provide input on potential historical districts.
- Provide input on historical programs and outreach efforts.
- Make recommendations establishing an archives/collection program.
- Raise funds to preserve historical structures and amenities.
- Provide recommendations to the Board of Charlotte County Commissioners on issues relating to those duties specified above or other duties as assigned by the Board of Charlotte County Commissioners.
- Review and provide input on the Capital Improvement Budget.

THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL OF THE ENACTMENT OF ORDINANCE #2004-045, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

VIII. PRESENTATION AGENDA

AA. 10:00 A.M.

Agenda Item AA-1, Power Point presentation of quarterly update on Healthcare Benefits and renewal of the Property and Casualty Insurance

Kurt Gehring, of the Gehring Group gave the following Power Point presentation:

- BlueCross BlueShield of Florida - Claims Experience - Effective January 1, 2004.
- CIGNA Health Care Insurance Claims Summary.
- Property, Casualty & Workers' Compensation Insurance 2004/2005 Premium Projection.
- Property, Casualty & Workers' Compensation Cost Analysis.
- Safety & Loss Control - Projects Completed and Projects Pending Completion.
- Consumer Driven Health Plan - The Concept.
- ICMA-RC RHS Program

Bob J. Pryor, Risk Manager briefly outlined the Wellness Program Highlights as follows:

- October 6, 2004 Implementation Date.
- Voluntary and no cost to the employees.
- Wellness Committee.
- Increases awareness of current personal health status, employee productivity, and reduces healthcare costs.
- Provides monthly activities that proactively address preventable health issues (i.e. seminars, group walks, etc.).
- Health risk assessment and screenings.
- Incentive Program and Point System.

Commissioner Devos stated she is quite pleased with the outline of the Wellness Program. **Chairman DeBoer** stated he wishes there were some type of incentives to keep people healthier. **Commissioner Devos** stated she did like the consumer direct approach and would like more information on this particular aspect.

VI. REGULAR AGENDA

Community Development

Agenda Item Y-4, Present minimum house size standards

Thomas Smith, Zoning Official stated the issue of requiring a minimum square footage for single family homes was given to the Community Development Department to investigate. Mr. Smith stated the concern is often raised by citizens that under current zoning regulations, it is possible to produce two individual homes, side by side, which are significantly different in appearance, size and value. Mr. Smith stated in fact, this is true. Mr. Smith stated in the vast majority of situations, these matters are dealt with through deed restrictions, which are not enforced by the County. Mr. Smith briefly gave a presentation of what five counties in the State are doing regarding minimum house sizes as follows:

- Four of the following counties: Lee, Sarasota, Indian River and Levy have no minimum house size standards.

- Collier County does have a "minimum floor area" section contained in the "Residential Single-Family Districts (RSF)" as follows:
- RSF-1 (one acre lot)....1,500 square feet (one story)....1,800 square foot (two story)
- RSF-2 (one-half acre lot)....1,5000 square feet (one story)....1,800 square feet (two story)
- RSF-3 (10,000 square feet lot)....1,000 square feet (one story)....1,200 square feet (two story)
- RSF-4 (7,500 square feet lot)....800 square feet (one story)....1,200 square feet (two story)
- RSF-5 & 6 (6,000 square feet lot)....600 square feet (one story)....800 square feet (two story)

Mr. Smith stated that according to the Chief Land Use Attorney for Collier County, this provision has been in the zoning code since the early 1980's. Mr. Smith stated that however based on her experience over the past 16 years, it has never come into play and she explained that all new single family development during this time has been through P.U.D. zoning. Mr. Smith stated each P.U.D. can establish its own development standards, to include minimum house size; and in addition, nearly every P.U.D. has adopted private deed restrictions, which also address minimum house size. Mr. Smith stated that as it turns out, Collier County has had negligible development with the RSF zoning districts over the past twenty years. Mr. Smith stated, therefore, the minimum house size standard has never been enforced in the RSF districts. Mr. Smith stated that in discussions with the Charlotte County Attorney's Office, there was concern that it may be difficult to establish a clear public purpose to justify the adoption of minimum house size standards. Mr. Smith stated staff would recommend the continuation of the County's minimum house size standards. **Chairman DeBoer** inquired as to how an individual would go about changing deed restrictions. Mr. Smith stated there must be a high percentage of votes among the residents in the specific area to change restrictions. **Commissioner Devos** stated that deed restrictions are very difficult to enforce. **Commissioner Devos** stated he opposes minimum house size standards and that staff needs to encourage homeowners living in deed restricted communities that the Board of Charlotte County Commissioners can't do anything for them. **Commissioner Horton** stated that deed restrictions are

hard to change and even more difficult to enforce. **Commissioner Horton** expressed concern with the amount of substandard lots existing in Charlotte County and he doesn't want to create substandard housing in Charlotte County. **Commissioner Horton** questioned if we want our affordable housing to become substandard housing. **Commissioner Horton** commented on an individual in west county who purchased over 100 lots that he was going to construct 600 square feet homes or less so that they would be affordable. **Commissioner Horton** stated these houses were costing twice as much to build versus larger homes, and if this individual didn't have internal family problems, the Gulf Cove area would've ended up with 600 square feet or less homes. **Commissioner Horton** stated he seems to remember that this individual only constructed four or five of these homes. **Commissioner Horton** stated that a 600 square foot house has four windows and one door. **Commissioner Horton** stated this particular situation could happen in Charlotte County. **Chairman Horton** commented on a manufactured home that recently came into his area with a stem wall just like a site built home. **Commissioner Cummings** stated minimum house size standards are not an issue with him. **Commissioner Cummings** stated if he wanted to build an expensive home he would build it in a deed restricted area or in a very, very expensive development where no one could build a small house. **Commissioner Cummings** stated he personally doesn't like a deed-restricted area and his own home is only 24 feet wide. **(BOARD CONSENSUS TO LEAVE THE MINIMUM SQUARE FOOTAGE FOR SINGLE FAMILY HOMES THE WAY IT IS.)**

Administration

Agenda Item Y-5, Update on the Lennar proposal for Murdock Village

Bruce D. Loucks, County Administrator summarized the Lennar proposal as follows:

- The County will receive \$30 million over a six-year period in direct cash payments. In addition, the County will receive 1.5% of all home sales for an additional \$10.9 million. This ensures the County the ability to participate in revenue sharing.

- Over the next twenty years, both the County and the School Board will receive \$45 million each in additional property taxes.
- The County will be "made whole" over an 11-year period.
- No Tax Increment will be disbursed to Lennar. The RFP allowed up to \$15 million of Tax Increment (TIF) to be disbursed to the developer.
- The County will maintain the funding for the Toledo Blade and Flamingo Road projects within Murdock Village.

Mr. Loucks stated that the only unresolved cost is that of demolition, which once decided, will either be a cost to the County if the County does the demolition or a reduction in fees to the County if Lennar undertakes that effort. **(Board discussion ensued regarding the amount of acreage that would be retained by Charlotte County, costs analysis for entire package, concerns about the plan and additional changes that are needed to the proposal, concerns with dollar costs, concerns with additional traffic on SR 776, additional amenities needed, consideration of adopting a master plan before entering into this proposal, and additional discussion needed regarding the utilization of TIF funding.)** Mr. Loucks recommended a workshop be scheduled for July 20, 2004 to discuss all the questions posed by the Board Members. **(BOARD CONSENSUS TO SCHEDULE A WORKSHOP TO DISCUSS THE LENNAR PROPOSAL FOR JULY 20, 2004 AT 9:00 A.M. IN ROOM 229.)**

Agenda Item Y-6, Set a Board Workshop for July 26, 2004 at 10:00 A.M. to present the proposed Countywide Maintenance Dredging Program and consider the establishment of a West County Paving District. (This Workshop was originally set for July 12, 2004)

COMMISSIONER DEVOS MOVED FOR APPROVAL TO SET A BOARD WORKSHOP FOR JULY 26, 2004 AT 10:00 A.M. TO PRESENT THE PROPOSED COUNTYWIDE MAINTENANCE DREDGING PROGRAM AND CONSIDER THE ESTABLISHMENT OF A WEST COUNTY PAVING DISTRICT, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

Agenda Item Y-7, Discussion and direction regarding refunding the \$92,000.00 lien payment made to Charlotte County by Susan Farr and her husband Joe Decker for Code Enforcement violations

COMMISSIONER DEVOS MOVED FOR APPROVAL OF REFUNDING \$72,000.00 LIEN PAYMENT MADE TO CHARLOTTE COUNTY BY SUSAN FARR AND HER HUSBAND JOE DECKER FOR CODE ENFORCEMENT VIOLATIONS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS. Commissioner Cummings stated \$72,000 is a fair amount.

XI. CITIZENS' INPUT - ANY SUBJECT

Bob McCleary commented on the balance of the utility bonds and the proposal from Lennar for the development of Murdock Village.

Gary "Doherty" a Christian motorcycle rider expressed safety concerns regarding the road conditions in Charlotte County.

BB. County Administrator

No Items.

CC. County Attorney

No Items.

DD. Commissioners' Comments

Commissioner Cummings reported he approved the agreement for \$200,000.00 from the Authority to DeSoto County, even though he didn't really like how it was accomplished, but it was the right thing to do. **Commissioner Horton** stated he would save his comments regarding Charlotte Enterprise Airport Park until this afternoon. **Commissioner D'Aprile** commented on parking fees at the Port Charlotte Beach Complex and recommended the fees be eliminated during the evening hours. **Commissioner D'Aprile** stated that the people who are using the complex during the evening hours are generally there attending a special function at the beach complex itself. **Commissioner D'Aprile** stated the organization renting the facility is already paying a rental fee to cover expenses associated with their event whether it is square dancing, a dinner or a meeting. **Commissioner D'Aprile** stated he doesn't feel it is appropriate to also charge the

patrons a fee to park their cars to attend the special event. **Commissioner D'Aprile** stated that Mrs. Kleiss-Hoeft will be checking into this issue. **Chairman DeBoer** stated he has received a request from the Charlotte Environmental Center for help with impact fees for the construction of a water resource facility and questioned if any of the Board Members were interested in assisting them. **Commissioner Cummings** stated if we could find appropriate revenue source he would be willing to assist. (Board Members agreed with Commissioner Cummings.)

RECESS: 11:50 A.M. - 2:00 P.M.

(Chief Deputy Board Services Tommy Q. White was not present for the first portion of the meeting, Assistant County Attorney Louis Whitehead replaced Deputy County Attorney Brendan Bradley, Executive Assistant Joann Dillon replaced Executive Assistant Jenine Thornley, and Deputy Clerk Diane J. Nice replaced Supervisor of Minutes Caroline W. Lounsbury for the remainder of the meeting.)

X. PLANNING AND ZONING AGENDA

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

Future Land Use Map Amendment: This is a legislative hearing which must meet the "fairly debatable" legal standard.

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

Jie Shao, Planner II, gave a slide presentation on the request filed by KAPT Limited Partnership for a large-scale plan amendment on an approximate 17.11-acre vacant parcel from Mixed Use and Low Density Residential (LDR) to Commercial Center (CC) along with the companion rezoning from Environmentally Sensitive (ES), Residential Multi-Family (RMF-10), and Residential Single Family (RSF-3.5) to Commercial General (CG) to allow commercial development; the land is located on the northwest corner of the Veterans Boulevard and Toledo Blade Boulevard intersection; there are vacant lots to the north with a LDR Future Land Use Map (FLUM) designation and RSF-3.5 zoning; a Florida Power & Light Company (FPL) transformer site is located to the west with a small portion of vacant Residential located along the upper

west side; the transformer site has a Mixed Use FLUM designation with Industrial Light (IL) zoning and a LDR FLUM designation with RSF-3.5 zoning; vacant land is located to the east with a Low Intensity Industrial FLUM designation with IL zoning; south of the site across Veterans Boulevard, is the new Home Depot in an Industrial General (IG) designation; the subject property is located in the Infill portion of the Urban Service Area and a highly visible location suitable for commercial uses; the proposed change would not be out of character with the surrounding area; based upon compatibility with the adjacent area and the 1997-2010 Comprehensive Plan, staff recommends approval and the Planning and Zoning (P&Z) Board recommended approval. **(Commissioner Cummings was present for the remainder of the meeting.)** Robert H. Berntsson, of the law firm of McKinley, Ittersagen, Gunderson & Berntsson, P.A., appeared on behalf of the applicant and explained various requests regarding the site have been before the Board i.e. removal of a portion of the site from the Murdock Development of Regional Impact (DRI), stated this large scale plan amendment was transmitted to the Department of Community Affairs with no objections, and requested approval. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-046 BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 2, 2004 AND THE EVIDENCE AND TESTIMONY PRESENTED AT THIS PUBLIC HEARING APPROVING PETITION PA-03-11-38-LS FILED BY KAPT LIMITED PARTNERSHIP, SECONDED BY COMMISSIONER D'APRILE. Commissioner Horton** requested the number of current development units and the number of development units after the change to commercial. Attorney Berntsson estimated 15 units on the RSF-3.5 portion, 30 units on the RMF-10 portion or 45 units would be removed. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Rezoning: These are quasi-judicial hearings which require disclosure of "ex-parte" communications and sworn testimony. Findings must meet the "substantial competent evidence" legal standard that the proposal is consistent with adopted policy. Allows cross-examination of witnesses and rebuttal.

Chairman DeBoer announced quasi-judicial hearing procedures. A member of the Italian American Club stated numerous members are present and they are undecided about giving testimony. **Chairman**

DeBoer explained the petition and ex-parte communications would be entered into the record. **(Deputy Clerk Diane J. Nice administered the oath to prospective witnesses regarding Petitions Z-04-05-15, Z-04-04-12, and Z-04-04-10.)**

Agenda Item EE-2, Z-04-05-15, District IV (Proof of Publication was in Order.)

Ms. Shao stated this is the companion rezoning to Petition PA-03-11-38-LS filed by KAPT Limited Partnership requesting a rezoning from ES, RMF-10, and RSF-3.5 to CG; the site is vacant land located on the northwest corner of the Veterans Boulevard and Toledo Blade Boulevard intersection; the increase in traffic flow from the proposed change would drop the roadway segment of Veterans Boulevard to a Level of Service (LOS) Category "D" which is below the County's mandated LOS "C"; the drop in the LOS should only be temporary since Veterans Boulevard will soon be expanded as part of the Capital Improvements Program (CIP); Type C buffering will be required between the CG and RSF-3.5 on the north side of the site; based on compatibility with surrounding areas and the 1997-2010 Comprehensive Plan, staff recommends approval, and the P&Z Board recommended approval. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none except what was heard regarding the companion plan amendment.)** Attorney Berntsson requested incorporation of his testimony from the plan amendment hearing and stated, after a review of the staff report, 63 density units would be removed. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-047 BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 2, 2004 AND THE EVIDENCE AND TESTIMONY PRESENTED AT THIS PUBLIC HEARING APPROVING PETITION Z-04-05-15 FILED BY KAPT LIMITED PARTNERSHIP, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

(Chief Deputy Board Services Tommy Q. White was present for the remainder of the meeting.)

Agenda Item EE-3, Z-04-04-12, District III (Proof of Publication was in Order.)

Ms. Shao presented slides on the request filed by Dr. Alan Knapp for rezoning of a 1.3-acre parcel from RSF-3.5 to Planned Development (PD); located on the corner of Pine Street and 7th Street in Englewood; the FLUM classification of the site is LDR; the purpose for the rezoning is to allow development of a medical office as support services to the Englewood Community Hospital located in Sarasota County; the applicant requested a FLUM amendment on February 18, 2003 from LDR to Commercial Corridor and a rezoning from RSF-3.5 to Office, Medical, and Institutional (OMI) and the Board denied the application due to the potential increase in residential density allowed by the OMI zoning district and the potential creation of a commercial strip along Pine Street; now the applicant is requesting a PD rezoning to provide protection for adjacent residential uses contingent upon stipulated conditions; the property will be developed according to the approved concept plan and under specific development conditions; the recommended conditions will minimize intrusion of light, noise, and other impacts associated with commercial development; based on proposed uses of the property, mitigation of possible impacts to surrounding residential land uses, and the 1997-2010 Comprehensive Plan, staff recommends approval with conditions; and the P&Z Board recommended approval with conditions set out in the ordinance. **(Chairman DeBoer polled the Board for Ex-Parte Disclosures. There were none.)** Attorney Berntsson appeared on behalf of the applicant by joining in the staff report and conditions and requested approval. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** Commissioner D'Aprile requested verification of the conditions. Attorney Berntsson stated conditions A through S, as listed in the staff report and the ordinance, direct the use of the property, buffering, landscaping, and access only on Pine Street. **COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-048 BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 2, 2004 AND THE EVIDENCE AND TESTIMONY PRESENTED AT THIS PUBLIC HEARING APPROVING PETITION Z-04-04-12, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item EE-4, Z-04-04-10, District II (Proof of Publication was in Order.)

Barbara Jefferies, Planner II, presented slides on the request filed by the Italian American Club for rezoning from Agricultural Estates (AE) to CG on 4.8 acres to make it consistent with the existing use and the CC FLUM designation; the site is located east of Taylor Road, north of Airport Road, south of Hemlock Avenue, west of I-75, and adjacent to Edison Community College in Punta Gorda; the surrounding FLUM designations are LDR, High Density Residential (HDR), and Commercial Center; surrounding Zoning designations are Mobile Home Conventional (MHC), RMF-10, and CG; the Club has been operated as a CG use for 26 years; approval of the application will correct an inconsistency between the FLUM and Zoning designations; staff recommends approval; and the P&Z Board recommended approval. (**Chairman DeBoer polled the Board for Ex-Parte Disclosures and advised the petitions and the list of individuals each Commissioner received would be entered into the record.**) Ron Struthers, represented the Italian American Club, by stating approval of the rezoning would provide consistency and requested approval. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-049 BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING DIVISION STAFF REPORT DATED JUNE 2, 2004, AND THE EVIDENCE AND TESTIMONY PRESENTED AT THIS PUBLIC HEARING APPROVING PETITION Z-04-04-10 FILED BY THE ITALIAN AMERICAN CLUB, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

Street Vacations: (These are legislative hearings which must meet the "fairly debatable" legal standard.)

Agenda Item EE-5, SV-04-04-05, District III (Proof of Publication was in Order.)

Chris Moore, Acting Development Review Manager, presented slides on the request filed by Worth and Laura David on behalf of themselves and owners of neighboring Lot 817 to vacate a portion of Palm Drive; the site is located in Section 5, Township 41 South, Range 20 East, as reflected in the Plat of Rock Creek Park as recorded in Plat Book 2, Page 99 of the Public Records

of Charlotte County; the portion to be vacated is immediately north of Snook Bayou between Lot 5, Block A and Lot 1, Block B; it is approximately 105 feet long by 50 feet wide for a total of .11 acre; if vacated, one-half of the right-of-way would be incorporated into each of the adjoining lots; the P&Z Board heard the petition on June 14, 2004 and recommended denial by a vote of 3:1; and staff recommends denial based on the following:

1. The County should retain the property for access to Ainger Creek for passive or active public uses.
2. This area may be used in the future for storm drainage improvements if roadway improvements are required.
3. There is an existing FPL guy wire within the area.

Worth and Laura David distributed notes; addressed staff's concerns by advising approval of the vacation will allow construction of a pool on the west elevation of their property; the strip was originally deeded as a 25 foot roadway easement; Snook Bayou is just under .5 mile long and there are four unused accesses to Ainger Creek; to their knowledge, there has not been any boat launches from the accesses in the 9 years they have been residents; three of the four access points are over grown and inaccessible; reported he was advised by FPL's North Port Residential Service Center that there is no issue regarding the pole because all of the poles are protected by "prospective rights"; the road was paved within the last two years; the Palm Street property was not used for the road paving but it was used by the company that installed sewers; the streets in the subdivision are all on canals with excellent drainage and all but two lots have been built on; there has not been any problems with standing water even with the 90+ inches of rain in 1995; opined staff has not quoted any applicable regulations for denial; referenced the restrictions in Plat Book 4, Page 29 regarding access points to Snook Bayou and pointed out Tom Adams Bridge is less than 1.5 miles, old Kevin's Place that is the Ainger Creek boat launch is less than 1.0 mile, and Indian Mound is 2.5 miles from this piece of property; questioned the justification for making the site a boat dock when it is the narrowest and shallowest access point except that at Pine Street; there are two deeper and wider access points than at Palm Street; requested approval; and offered to answer questions. **Chairman DeBoer** announced public input procedures. Roger Brewer, a resident across the street from Mr. and Mrs.

David, stated he is not opposed to the request but it might better be used as a community boat ramp and, if this location is not opened up for a boat ramp, than another access point that is wider and deeper at the other end. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** **Commissioner D'Aprile** requested an explanation of the red line to the site. Mr. Moore explained the red line denotes the area to be vacated. **Commissioner D'Aprile** noted applicants' wish to construct a pool and requested additional reasons for the vacation. Mr. Worth stated he and his wife consulted with the neighbors on splitting the strip and they agreed and his wife's long-term goal is to make and maintain it as a Florida certified garden. Mrs. David explained Australian Pines and Brazilian Peppers have been removed and red mangroves have been replanted to improve the health of the canal. **Commissioner D'Aprile** expressed concern that vacating the site will limit public access to Ainger Creek. Mr. David stated three other access points exist from 3rd and 2nd Streets, reiterated they have not witnessed any boat launches or fishing from the site in their 9 years of residence, and the site is open to public access. **Commissioner Horton** questioned if Palm Street is improved other than as a sand trail. Mr. Moore stated there are no plans to pave or improve it as part of the West County Paving Program and the same situation exists on the south side of Snook Bayou i.e. a right-of-way with an unbuilt roadway in it. **Commissioner Horton** requested verification on the split of the right-of-way. Mr. David advised the 50' right-of-way would be split 25' each to him and his wife and the neighbors. **Commissioner Horton** queried the canal depth at Palm Street. Mr. David stated above the ankles to about the waist depending on tides and seasons. **Commissioner Horton** questioned the number of lots between the site and Pine Street. Mr. David stated their lot is the 6th lot. **Commissioner Devos** acknowledged staff's recommendation to deny based on the retention of the site for future storm drainage improvements and requested the location of the next similarly situated accommodation site. Mr. Moore stated 8 lots down from Pine Street and pointed out even though there are no plans in the current CIP for roadway improvements to Palm Street, it would be better for the County to retain the roadway because road paving probably would be done sometime in the future. **Commissioner Devos** expressed support for adopting the resolution and requested input from other Board Members. **Chairman DeBoer**

stated the Board has a firm policy not to give up public access to waterfront, recalled a similar situation in Cape Haze and the Board denied the request, even though it occurred during the time when Lee County was vacating waterfront access on Boca Grande, and that policy has not been changed. **COMMISSIONER CUMMINGS MOVED FOR DENIAL OF PETITION SV-04-04-05, VACATING A PORTION OF PALM DRIVE, FILED BY WORTH AND LAURA DAVID BASED UPON, SECONDED BY COMMISSIONER HORTON.** Commissioner Horton recalled his concern on the possibility of needing the waterfront access on Cape Haze and expressed support for the motion because even though Snook Bayou would not serve navigation purposes, access points may be necessary for future stormwater drainage. **Commissioner D'Aprile** questioned if other right-of-way properties in that area are owned by the County that may be used. Mr. Moore stated not on that street and pointed out a lot of the expense involved in drainage projects is the acquisition of lots and he does not know of another site on Pine Street owned by the County that may serve the purpose. **Chairman DeBoer** pointed out developers have over platted the County and put in roads and drainage that the County has to maintain and repair and it would not be wise to give up property that provides access to perform this work. **CALL ON THE MOTION: MOTION CARRIED (3:2) WITH COMMISSIONERS DEVOS AND D'APRILE OPPOSING.**

Agenda Item EE-6, SV-04-04-07, District II (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the application filed by Seeview, LLC to vacate a portion of Doredo Way of 223.20 feet long by 60 feet wide for a total of .31 acre, as shown on the Plat of Punta Gorda Isles in Plat Book 13, Pages 1-A through 1-T of the Public Records of Charlotte County, located in Section 30, Township 42 South, Range 23 East, approximately 500 feet north of Saragossa Lane; approval of the vacation would allow incorporation into a 47-unit multi-family project to be approved by the Development Review Committee (DRC); the P&Z Board heard the application on June 14, 2004 and recommended approval; and staff recommends approval with the following condition:

1. Charlotte County Utilities has facilities within the right-of-way for which an easement must be granted, if

the Board chooses to approve the vacation, prior to recordation of the vacation.

Commissioner Cummings questioned the access of the property to the north and south of the site to Burnt Store Road and Trading Post Road. Mr. Moore explained DRC has approved the 47-unit multi-family project with accesses to the rear, not onto Burnt Store Road. **Commissioner Cummings** concluded the number of potential access points onto Burnt Store Road would be reduced. Mr. Moore stated that would be one benefit as well as the close proximity to the next entrance and the vacation would benefit the separation of driveways along Burnt Store Road. **Chairman DeBoer** requested the width of the next north and south dedicated rights-of-way. Mr. Moore stated the next access to the south is the main entrance with a divided roadway. **Chairman DeBoer** questioned if the next north and south rights-of-way are sufficient to provide capacity for four-laning. Mr. Moore responded affirmatively. James W. Herston, Herston Engineering Services, appeared on behalf of the applicant; agreed with the stipulation; and offered to answer questions. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-120 WITH THE CONDITION STATED ON THE RECORD APPROVING PETITION SV-04-04-07 FILED BY SEEVIEW, LLC, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item EE-7, SV-04-04-08, District II (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the application filed by Fellowship Church, Inc. for vacation of a portion of Rotonda Plaza that measures 614.0 feet long and 80 feet wide for a total of 1.13 acres, as shown on the Plat of Rotonda West Pebble Beach as recorded in Plat Book 8, Pages 13-A through 13-L of the Public Records of Charlotte County, located in Section 23, Township 41 South, Range 20 East; the portion to be vacated is between Pebble Beach Road and Rotonda Boulevard West; approval of the application will allow incorporation of the property for construction of a new church facility to be approved by the DRC; the P&Z Board heard the petition on June 14, 2004 and recommended approval; and staff recommends denial for the following reasons:

1. This portion of the roadway is part of a contiguous network to allow for rear access of future development in the area.
2. The vacation would adversely impact future traffic flow patterns.

Attorney Berntsson appeared on behalf of the Fellowship Church; advised Pastor Gary Clark and Jay Johansen of DMK Associates, who appeared before the P&Z Board, are present; he is representing the applicant at the request of a law firm partner who is a member of the Church; noted the scrub jay red and yellow overlays on a map of the Rotonda Circle area; reported no development has occurred on the second level of the Circle; the Church owns the four lots on either side of the right-of-way; the Church desires to construct a campus styled development; if the vacation is not approved, it would be necessary to maintain the roadway setbacks on both sides and the campus would be bisected by a future potential road; pointed out internal lots in two areas that do not front onto roadways and stated development of the lots would be done in conjunction with one another to provide access to all of the lots; the site is zoned CT and OMI and both have residential density; the Church is proposing development of a unified campus thereby reducing residential development; requested approval of the application; and expressed no objection to the condition for approval of providing an easement for right-of-way utilities prior to recordation of the vacation. **Commissioner Horton** questioned if Parade Circle is a complete circle. Attorney Berntsson responded no, indicated the area that was vacated as wetlands and State lands, and stated the road ends just south of Oakland Hills. **Chairman DeBoer** requested the location of the County-owned land. Attorney Berntsson expressed uncertainty. Dr. Bill Coy pointed out the locations of the Rotonda Community Park and CARL Program lands. **Commissioner D'Aprile** requested verification that approval of the vacation would not obstruct access to other properties. Attorney Berntsson concurred. **Chairman DeBoer** opened the public hearing. Pastor Gary Clark stated the vacation will benefit the Church and the community and requested approval. Dr. Coy, a Rotonda resident, stated residents are looking forward to the Church relocating from the auditorium of Lemon Bay High School where over 600 parishioners are currently meeting, explained the new community center is to

be built south of Rotonda Boulevard West, and this will provide an ideal situation. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-121 APPROVING PETITION SV-04-04-08 FILED BY FELLOWSHIP CHURCH, INC., SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

RECESS: 3:10 P.M. - 3:15 P.M.

Agenda Item EE-8, SV-04-04-10, District II (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation of the request filed by Michael and Melody Kinnison for vacation of a portion of Mandalay Drive of 135 feet long and 60 feet wide for a total of .19 acre, as shown on the Plat of Tropical Gulf Acres, Unit 10, as recorded in Plat Book 4, Page 76 of the Public Records of Charlotte County, located in Section 10, Township 42 South, Range 23 East between Lot 27, Block 200 and Lot 1, Block 291, the P&Z Board heard the petition on June 14, 2004 and recommended approval, and staff recommends denial for the following reasons:

1. Mandalay Drive is a collector road and vacation of this road will eliminate access for future development to the west. It is understood that the developer of the parcel to the west has provided a letter of "no objection." However, access to or through the parcel to the west may be required by a future owner or the County.
2. The vacation would adversely impact future traffic flow in the area.

Michael Kinnison requested approval of the application, pointed out three other accesses to the property exist, Mandalay Drive is not a through roadway to U.S. 41, there are two other accesses, he owns the lots on the other side and the vacation would allow consolidation for construction of a garage. Mr. Moore clarified that Mandalay Drive does connect to U.S. 41 although it is not as direct as Pasadena Drive. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY CHAIRMAN DeBOER AND DECLARED UNANIMOUS. Commissioner Cummings** stated

this is in an area where existing and potential east/west connections are important and opposed the vacation. **COMMISSIONER CUMMINGS MOVED FOR DENIAL OF PETITION SV-04-04-10, VACATING A PORTION OF MANDALAY DRIVE, FILED BY MICHAEL AND MELODY KINNISON, SECONDED BY COMMISSIONER DEVOS.** Chairman DeBoer agreed with Commissioner Cummings on the need to retain east/west accesses at least until all Burnt Store Road projects are completed. **CALL ON THE MOTION: DECLARED UNANIMOUS.**

Preliminary Plat: This is a quasi-judicial hearing that requires disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allows for cross-examination of witnesses and rebuttal.

Agenda Item EE-9, PP-04-04-07, District II (Proof of Publication was in Order.)

(Deputy Clerk Diane J. Nice administered the oath to prospective witnesses.) Mr. Moore gave a slide presentation on the application filed by KB Homes Fort Myers, LLC for preliminary plat approval for Creekside Residential Subdivision, in Section 22, Township 41 South, Range 23 East, located west of Taylor Road, west of I-75, and north of Jones Loop Road in Punta Gorda; 86 single family lots are proposed on 87.4 acres for a density of 1.1 unit per acre; the zoning is PD and the minimum lot size is 50 feet by 120 feet or 6,000 square feet; water and sewer service will be provided by the City of Punta Utilities; roads will be constructed to County standards; the P&Z Board heard the petition on June 24, 2004 and recommended approval; and staff recommends approval with the following conditions:

1. The property owner shall comply with all conditions in Ordinance #2004-007 and DRC-PD-03-07.
2. Depict minimum lots size on the Plat and Final Detail Plan for each lot.
3. Submit evidence that Lot 9 meets minimum width requirements.
4. Satisfy conditions of Environmental Compliance as issued from Current Planning and Zoning Section.

(Chairman DeBoer polled the Board for ex-parte communications. There were none.) Geri Waksler, of the law firm of Moore &

Waksler, P.A., appeared on behalf of the applicant with Todd Rebol of Banks Engineering, Inc. and stated the applicant accepts the conditions for approval. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.** Commissioner Horton requested confirmation that the creek on the map is Alligator Creek. Mr. Moore concurred. **COMMISSIONER D'APRILE MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-04-07 FOR CREEKSIDE RESIDENTIAL SUBDIVISION, FILED BY KB HOMES FORT MYERS, LLC, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Donation Agreement: This is a legislative hearing which must meet a "fairly debatable" policy decision.

Agenda Item EE-10, Centex Homes Agreement for Advance Payment Towards Park Impact Fees and Donation for Cattedock Boat Ramp Construction (Proof of Publication was in Order.)

Mr. Moore advised the following applications filed by Centex Homes are on today's agenda:

1. Plat Vacation for Fordham, Guilford, Claybourne, Cranford, and Concord, PV-04-04-09.
2. Preliminary Plat for Sawgrass Point Unit 1, PP-03-08-04.
3. Plat Vacation for a portion of Riverside Drive, PV-04-06-12.
4. Preliminary Plat for Sawgrass Point Unit 2, PP-04-05-08.

Mr. Moore stated, in connection with the plat approval and vacations, Centex Homes desires to assist the County's efforts to increase public access to the Myakka River; Centex Homes proposes making an advance payment of \$200,000 toward its park impact fee obligation and a \$500,000 donation to the County for construction of the boat ramp to be placed in escrow with a title company with instructions to release the funds when plats and plat vacations are approved. Dr. Coy, as a former member of the Parks and Recreation Advisory Committee, recalled the Committee's position was the donation should be to El Jobean with no discrimination and not specific to the Cattedock Road or El Jobean Boat Ramps. **Chairman DeBoer** requested the Committee's recommendation. Dr. Coy stated, without having the

exact wording, the donation was not specific to Cattledock Road, it was for El Jobean. **Chairman DeBoer** stated for the recreational facility that grants water access in the general area. Dr. Coy agreed. George Mandling, appeared as Chairman of the Northwest Port Charlotte Advisory Board and a representative of the Northwest Port Charlotte Community League, in support of all of Centex Homes applications with two modifications on plat vacations, PV-04-04-09 and PV-04-06-12, to reflect the location north of S.R. 776 in lieu of north of C.R. 775, El Jobean area and homeowners are concerned with the weight limits on the bridge since this is the only access to the construction site. **Chairman DeBoer** requested Mr. Mandling wait to voice the concern until the specific petition is called. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL OF AGREEMENT #2004-040 FOR ADVANCE PAYMENT TOWARDS PARK IMPACT FEES AND DONATION FOR RECREATIONAL OPPORTUNITIES IN THE EL JOBEAN AREA, SECONDED BY COMMISSIONER D'APRILE.** **Chairman DeBoer** requested confirmation that the motion is acceptable to Centex Homes. Steven C. Hartsell, of the law firm of Pavese, Haverfield, Dalton, Harrison & Jensen, L.L.P., stated the motion is acceptable and a revision has been made and provided to the County Attorney's Office to address Dr. Coy's concern to allow expenditure of the funds on the boat ramp or any other Myakka River access for future public benefit. **CALL ON THE MOTION TO APPROVE THE AGREEMENT, AS REVISED TO ALLOW EXPENDITURE OF THE FUNDS ON THE BOAT RAMP OR ANY OTHER MYAKKA RIVER ACCESS IN THE EL JOBEAN AREA: DECLARED UNANIMOUS.**

Chairman DeBoer acknowledged the change to **Items EE-11, PV-04-04-09 and EE-13, PV-04-06-12** to reflect the location as north of S.R. 776 on the agenda.

Plat Vacation: (This is a legislative hearing which must meet the "fairly debatable" legal standard.)

Agenda Item EE-11, PV-04-04-09, District IV (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the application filed by Centex Homes for plat vacation of a portion of Ward 6, El Jobean as recorded in Plat Book 1, Page 61 of the Public Records of Charlotte County, in Section 17, Township 40 South, Range 21

East, as part of the Riverwood DRI, Increment 2 pursuant to Resolution 970030A0; most of Ward 6 was vacated several years ago; the portion of the plat not previously vacated consists of seven lots not owned by Centex Homes and the rights-of-way which accessed the lots; the vacation request is for approximately 6.0 acres of remaining rights-of-way known as portions of Fordham Avenue, Guilford Road, Claybourne Avenue, Cranford Road, and Concord Road within the Riverwood DRI, Increment 2 area; lots not owned by Centex Homes are not being vacated; easements are provided for parcels not owned by Centex Homes; the P&Z Board heard the petition on July 12, 2004; and staff recommends approval. Attorney Hartsell appeared with Mark D. Haines, PSM/Wilson Miller, Inc., Attorney Hartsell distributed copies of aerials for use in this plat vacation and the plat vacation regarding Riverside Drive, and advised applicant agrees with the staff report and recommendation. Mr. Mandling stated residents are concerned with weight limits on the Ingosol Bridge that is the only access to the construction site between McCleod Street to Elenore Drive. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE.** Attorney Hartsell stated they are public roads and Centex Homes, to the extent that they have control over contractors and subcontractors, will encourage compliance with speed and weight limits and applicant is aware of residents' concerns and offered to maintain the roads to the best of its ability. **Chairman DeBoer** stated this is not a collector road that would be supported by gas tax revenues, this is supported by assessments paid by Northwest Port Charlotte property owners, and the County would probably take a strong position regarding the maintenance of the road by Centex Homes. **Commissioner D'Aprile** questioned if an evaluation might be done on the current road condition for future comparison. Attorney Hartsell expressed uncertainty about any evaluation that may already have been done. **Chairman DeBoer** pointed out Land Development staff might videotape those types of roads after submittal of development plans. Attorney Hartsell offered to provide background on the almost 20-year DRI. **Chairman DeBoer** pointed out Board Members have been involved in government at a minimum of 10 years up to almost 30 years. **COMMISSIONER D'APRILE MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-122 APPROVING PETITION PV-04-04-09, VACATING A PORTION OF PART OF THE PLAN FOR WARD 6 IN EL JOBEAN, FILED BY CENTEX HOMES, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Preliminary Plat: This is a quasi-judicial hearing that requires disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allow for cross-examination of witnesses and rebuttal.

Agenda Item EE-12, PP-03-08-04, District IV (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the request of Centex Homes for preliminary approval for Sawgrass Pointe (Unit 1) at Riverwood, in Section 17, Township 40 South, Range 21 East, comprised of 97 lots on 64.35 acres for a density of 1.51 units per acre with a minimum lot size of .18 acre; the site encompasses lands that were platted as Ward 6, El Jobean but have been vacated; the development is part of the Riverwood DRI, Increment 2 under Resolution 970030A0; water and sewer service will be provided through the Riverwood Community Development District; roads will be constructed to County standards but will remain private; easements are provided for parcels not owned by Centex Homes; the P&Z Board heard the petition on April 12, 2004 and recommended approval; and staff recommends approval. **(Chairman DeBoer polled Board Members for ex-parte communications and noted the minutes will reflect the applications and public hearings filed by Centex Homes.)** Attorney Hartsell appeared with Mr. Haines and offered to answer questions regarding the Sawgrass Pointe plat, which is Unit 1 of the Riverwood DRI Increment 2, and stated the petition on Unit 2 will be heard later today. **Chairman DeBoer** requested an explanation regarding access for Lots 1248 and 1249 at the end of Guilford Road and Lot 1743 at the end of Jamaica Way. Attorney Hartsell advised temporary access easements have been provided to the lots as well as dedicated easements through the plats, distributed a two-page exhibit that reflects the easements and the rights-of-way that Centex Homes will provide under PP-03-08-04 and PP-04-05-08, and advised throughout the process the lots will maintain access through legal easements until the final plats are approved or what is remaining from the unvacated portions of the existing El Jobean plat. Attorney Hartsell pointed out the property owners will be provided access and development will occur around them. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER**

D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-03-08-04 FOR SAWGRASS POINTE (UNIT 1) AT RIVERWOOD FILED BY CENTEX HOMES, SECONDED BY CHAIRMAN DeBOER AND DECLARED UNANIMOUS.

Plat Vacation: (This is a legislative hearing which must meet the "fairly debatable" legal standard.)

Agenda Item EE-13, PV-04-06-12, District IV (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the application filed by Centex Homes for vacation of a portion of the plat of Wards 4 and 6 of El Jobean as recorded in Plat Book 1, Page 61 of the Public Records of Charlotte County, in Section 17, Township 40 South, Range 21 East, located in Riverwood DRI, Increment 2 under Resolution 970030A0; most of El Jobean Ward 6 was vacated several years ago; the portion of the plat not previously vacated consists of seven lots not owned by Centex Homes and the rights-of-way which accessed those lots; the vacation request is for approximately 11.75 acres of remaining rights-of-way on Riverside Drive a/k/a River Beach Drive; easements are provided for those parcels not owned by Centex Homes; the application was heard by the P&Z Board on July 12, 2004; and staff recommends approval. Attorney Hartsell appeared with Mr. Haines and stated an aerial and an exhibit have been distributed showing the proposed easements and access to the out lots. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED FOR APPROVAL TO ADOPT RESOLUTION #2004-123 APPROVING PETITION PV-04-06-12 VACATING A PORTION OF WARDS 4 AND 6, EL JOBEAN PLAT FILED BY CENTEX HOMES, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

(Deputy Clerk Diane J. Nice administered the oath to prospective witnesses regarding Agenda Items EE-14 and EE-15.)

Preliminary Plat: This is a quasi-judicial hearing that requires disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allows for cross-examination of witnesses and rebuttal.

Agenda Item EE-14, PP-04-05-08, District IV (Proof of Publication was in Order.)

Mr. Moore gave a slide presentation on the application filed by Centex Homes for preliminary plat approval for Sawgrass Pointe (Unit 2) at Riverwood located in Section 17, Township 40 South, Range 21 East, for 73 lots on approximately 25.70 acres for a density of .35 units per acre, the minimum lot size for the Patio and Cluster Homes is 4,000 square feet; the site encompasses lands that were platted as Ward 6, El Jobean but have been vacated; this development is part of Riverwood DRI, Increment 2 pursuant to Resolution 970030A0; water and sewer service will be provided through the Riverwood Community Development District; roads will be constructed to County standards but will remain private; easements are provided for parcels not owned by Centex Homes; the application was heard by the P&Z Board on July 12, 2004; and staff recommends approval with the following condition:

1. Easement shall be provided to all utility companies, if needed.

(Chairman DeBoer polled the Board for ex-parte communications. There were none.) Attorney Hartsell appeared with Mr. Haines and stated the applicant accepts and agrees with the condition for approval and staff's recommendation. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. COMMISSIONER D'APRILE MOVED FOR APPROVAL OF PRELIMINARY PLAT PP-04-05-08 FOR SAWGRASS POINTE (UNIT 2) AT RIVERWOOD FILED BY CENTEX HOMES AND THE ONE CONDITION, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS.**

RECESS: 4:00 P.M. - 4:08 P.M.

Zoning Text Amendment: This is a quasi-judicial hearing that requires disclosure of "ex-parte" communications, sworn testimony, substantial competent evidence, findings that the proposal is consistent with adopted policy, and allows for cross-examination of witnesses and rebuttal.

Agenda Item EE-15, Enterprise Charlotte Airport Park Ordinance
(Proof of Publication was in Order.)

Inga Williams, Planner III, stated this is the second public hearing required for amendment of Section 3-9-51, Regional Commerce Park; changes have been made to the ordinance as a result of the June 22, 2004 public hearing including:

1. The Regional Commerce Park (RCP) has been renamed Enterprise Charlotte Airport Park (ECAP).
2. "The preferred style shall be that depicted in the illustrations of the Charlotte County Economic Development Marketing Plan, January 2005-2010, adopted by the Board on June 22, 2004" has been added as the third sentence in paragraph (g)(1) on Page 11.
3. All illustrations depicted in the prior draft ordinance have been removed since design and development standards will comply with the Marketing Plan.
4. The language in paragraph (2)(a), Page 11, has been changed to clarify new development within ECAP due to the settlement agreement with Arnold and Vetter.
5. References made in the prior draft to group home facilities, adult congregate facilities, nursing homes, continuing care facilities have been limited as contiguous and accessory uses to a hospital facility i.e. these types would be only allowed as a special exception to a hospital facility.
6. The last paragraph on page 2 has been changed to read "WHEREAS, on June 8, 2004, the Board renamed the area encompassed by the Airport Commerce Park Overlay District to Enterprise Charlotte Airport Park (short title: "ECAP"); and".
7. A space needs to be added on Page 20 as a minor correction.
8. The word "percent" needs to be added on page 45, paragraph (36)(b)(i) after "(15)" on line 17.

Ms. Williams requested approval and offered to answer questions. **(Chairman DeBoer polled Board Members for ex-parte communications. Commissioner Horton advised Bucky McQueen and Jerry O'Halloran have telephoned him with a reminder of their positions. Commissioners D'Aprile and Cummings recalled Mr.**

McQueen contacted them with input consistent with comments on the public record.) Chairman DeBoer announced public input procedures. Jim Deutsch, appeared as Vice President of the Tenants Association at the Punta Gorda Airport, and read from an October 3, 2003 letter to **Chairman DeBoer** concerning residential use of the Airport boundary: "I'd like to remind the Board that there are over 29,681 pilots in Florida and quite a few in our local area that use the facility. We strongly endorse the compatible land use in zoning to preserve and protect the Airport, a public investment in the Airport, and prevent noise impacts to adjacent communities. Zoning is the most popular method of regulating land development and it is a legal technique and dictates various aspects of land development." Mr. Deutsch stated the Association strongly opposes any type of residential use of the lands around the Airport. Sach Youngblood, a tenant at the Charlotte County Airport and a Tenants Association Board Member, opposed any type of residential zoning within the Commerce Park and referenced the Martin County Board of County Commissioners attempt to purchase 29 homes adjacent to an airport due to noise complaints. Larry Hofmeister, President of the Charlotte County Airport Tenants Association that represents 131 members, opposed residential development including group homes, assisted living facilities, etc. within the Commerce Park Overlay; stated it should be developed for commercial, industrial, and business uses; and suggested future development in the area be subject to navigation easements in favor of the Airport. R. Scott Buchanan, a County resident and a member of the Punta Gorda Corporate Issues Committee, read from the Federal Aviation Agency (FAA) land use compatibility with airports prefix: "The FAA Southern Region Airports Division Office has received a request from airport personnel and local governments to provide guidance on how to establish and maintain compatible land uses around airports. The Southern Region Airports Division Office is responsible for planning, building, expanding, and improving airports, finding solutions to airport congestion, supporting nearest compatibility and noise reduction programs, minimizing adverse environmental impacts that insure safety and regulatory compliance in the Southern States. In response to these requests, the FAA's Southern Region established in 1998 a Compatible Land Use Planning Task Force. The Task Force was charged with identifying how to better coordinate the airport master planning process and related environmental plans with the

local comprehensive land use planning process. The Task Force shall determine that the resource guide to assist local governments and airports in identifying and implementing a ... compatible land use, such as airport overlay zones and easements would be the best way to prevent or slow down the proliferation of any incompatible land use around airports. Incompatible land uses around general aviation airports jeopardize the safety and efficiency of flying activities and the quality of life of the community residents. Incompatible land uses include residential development, schools, community centers, and libraries, hospitals, and buildings used for religious service and tall structures, smoke and electrical signal generation, landfills, and other big wildlife attractives, new housing generated by the increased population.... residential development, particularly high density development, is not compatible with airport operations due to airport and noise impacts and for safety reasons. In some cases, the airport sponsors purchase or protect sufficiently around the airport to prohibit the encroachment of incompatible land uses." Mr. Buchanan opined residential housing needs to be kept out of airport areas. Gary Quill, Charlotte County Airport Authority Executive Director, cited from the first paragraph of the ordinance "the Board 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"; expressed concern that Conditional Uses, Special Exceptions allow group home facilities, adult congregate living facilities, and nursing homes, and multi-family residential developments (developed as part of a continuing care retirement facility) that are contiguous and accessory to a hospital facility; especially for multi-family development that would allow a load up of a substantial amount of units at the north end that is directly under the flight path; requested clarification on the definition of a hospital i.e. like Medical Center or something less; questioned removal of "inhabitants" regarding lawsuits; and opposed residential near the flight approach. Mr. O'Halloran appeared on behalf of the local business community for the Punta Gorda Business Alliance, stated a lot of changes have been made to the ordinance proposed two weeks ago, recalled all residential development was to be eliminated and this was not done, multi-unit residential development was added in association with a hospital, he has spoken with two Charlotte

Regional Medical Center Board Members who indicated there is no intention of building a hospital in the District, he has also spoken with the CEO of Charlotte Regional Medical Center who confirms there is no intention of building a hospital at the golf course, this intention has also be confirmed with the owner of the Center, expressed concern with the addition multi-family development, stated hospitals are not compatible airport uses, pointed out the ECAP.org website is not appropriate to be associated with this District. Robert (Bucky) McQueen stated he has problems with the administrative process since no copies of the ordinance were available for this public hearing or the hearing before the P&Z Board so it is impossible to ascertain what changes were made; he is a member of the Airport Tenants Association and the only one who owns and pays taxes on property within the 4,300 acre District; stated the Airport has an obligation to be responsible and libel for its actions whereby the ordinance indicates property owners must give up their rights to a navigation easement that would prevent any lawsuit being filed for negligence, noise, etc.; requested the Board consider property owners' rights and pointed out Attorney Berntsson addressed the issue before the P&Z Board; and expressed opposition to the ordinance by pointing out development is occurring outside of the District i.e. there has not been any permit pulled in the last two for economic development within the District, the ordinance is too complex and complicated, and the cost to develop might be increased by 28% compared with surrounding areas, setback and buffer requirements are very restrictive on development, prohibitions on certain types of fencing materials, and the ordinance is contradictory to what the Board is trying to accomplish. Mr. McQueen reported Economic Development staff has not convinced him, as the largest property owner in the District, of the benefits of the ordinance; financing and funding issues have not been addressed; questioned the \$6,000 per acre assessment in the budget; and stated the ordinance does not accomplish anything. Attorney Berntsson, appeared on behalf of Richard Vetter and other parties subject to the settlement agreement with the County, provided a copy of proposed language and the July 1, 2004 letter from Kenneth G. Oertel with suggested language that "this ordinance does not apply to the parcel of land described in the Agreement entered into by Richard Vetter, et al. and Charlotte County bearing signatures dated 12/8/03 and 12/9/03. That land is determined to be vested as of 12/8/03 and the uses

allowed thereon are those contained in Ordinance 2003-067, by virtue of that Agreement"; referenced a memorandum dated July 7, 2004 from the County Administrator to the Board indicating the ordinance was revised to address the concern raised regarding the Vetter settlement; stated the language continues to be and is solely applicable to the Section designated Design and Development Standards; the settlement was much broader; and reiterated the ordinance is an amendment to Section 3-9-51 contained within Section 3-9 of the Code where definitions are listed in Section 3-9-2; this ordinance contradicts definitions within the Code and it will create confusion for practitioners and staff; cautioned the Board on taking property owners' rights away under abrogation easements; and requested inclusion of the proposed revision regarding the Settlement Agreement language. Richard Trzcinski, President of Prime America Development Company and contract holder for the Punta Gorda Country Club, expressed understanding of the Airport's wishes regarding navigation easements but economic development growth must be considered in the District, there are problems with building a consensus for the hospital to construct a new state-of-the-art facility in the Airport area, stated hospitals do not want to continue to run and develop congregate care facilities but there are professional companies who operate such establishments in close vicinity and affiliation with a medical campus, there are numerous factions that do not want the hospital located near the Airport, and commented on the need to address issues relating to existing resources to promote economic growth. Mr. Trzcinski stated there are ways to address safety and adverse impacts relating to residential development; there have been people who have expressed an interest in destination resort type property that would require a residential base and utilize a portion of the golf course; stated the tax revenue impact would increase tremendously; goals for the area include quality community development, garner jobs through the hospital move but consensus building needs to be done; stated the residential component should remain and be expanded back to what it was with recognition of a navigation easement; and allow commercial and retail uses of 150,000 square feet, instead of 100,000 square feet, similar to the entry way for Southwest Regional Airport along Daniels Parkway. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.** Commissioner Cummings stated he has consistently supported allowing adult congregate living facilities associated

with the hospital because he was led to believe of its necessity to accomplish the deal with the hospital and now it looks as though he has been misled for some time based upon Mr. Trzcinski's confirmation of the hospital's intent; expressed understanding of citizens' concerns on property owners' rights and residential development in Charlotte Ranchettes, where a home is located 3,000 feet from the end of a runway; even though the Board is encouraging development around the Airport, the purpose of the District is not to speed up development, it is to protect the unique assets and make sure that development was compatible; expressed a willingness to leave in the language to allow adult congregate living facilities associated with a hospital until, at least, the right-of-way access with a tie-in at Regent Drive is resolved. **Commissioner Devos** commented in favor of grandfathering in existing businesses and expressed disappointment that definitions in the ordinance and Code are not the same. Ms. Williams pointed out, page 10, line 27, paragraph (f), Existing uses, indicates the zoning district classification shall not render an existing use on that property as non-conforming, even if such existing use is not a principal permitted use or a permitted accessory use and pointed out paragraph (f)(1) provides 120 days from cessation for property owners to file for permits necessary to effect repairs. **Commissioner Devos** requested an explanation on the difference in definitions from the Zoning Code and the ordinance. Ms. Williams stated definitions are specific to this ordinance. **Commissioner Devos** expressed concern that conflicting definitions will create inconsistencies. Thomas A. Cookingham, Planning Services Manager, explained definitions were developed for the District based upon specific requirements and land uses that do not apply on a County-wide basis. **Commissioner Devos** opposed residential development in the District and requested the number of the 4,300 acres that is Airport property. Mr. McQueen stated approximately 2,000 acres. **Commissioner Devos** stated the issues she wants addressed are providing more consistency in the definitions, eliminating residential uses, and grandfathering in existing businesses. **Commissioner D'Aprile** pointed out the Board has heard a wide spectrum of statements; questioned the rights of residents, the County, land owners, and the Airport; requested an explanation on the existence of a law to protect the County and Airport from liability as a result of future noise complaints. Louis Whitehead, Assistant County Attorney, stated none exists to his

knowledge. **Commissioner D'Aprile** pointed out airports have been known to close because of noise and other complaints; opined there is no place for future residential development near the Airport; existing residential uses are subject to noise; he is confused and more work is needed on the ordinance; the setback and buffer requirements are confusing and unfair; the ordinance needs to be clear cut to assure the future of the Airport and economic development. **Commissioner Horton** requested confirmation that the definitions for ECAP differ from general County-wide definitions. Ms. Williams stated definitions specific to this zoning district are separate and different than from other zoning districts. **Commissioner Horton** expressed no objection regarding the difference in definitions. **Commissioner Horton** expressed concern about the language proffered by Attorney Berntsson that land is determined to be vested as of 12/8/03 and the uses allowed thereon without making a comparison of the Agreement and agreed with eliminating residential uses. **COMMISSIONER HORTON MOVED FOR APPROVAL TO REMOVE SECTION 1, PAGE 6, FROM THE PROPOSED ORDINANCE, SECONDED BY COMMISSIONER DEVOS.** **Commissioner Devos** requested assurance that references to all residential development in the ordinance along with deletion of Section 1. **COMMISSIONER HORTON AMENDED THE MOTION TO REMOVE ALL REFERENCES TO RESIDENTIAL DEVELOPMENT THROUGHOUT THE ORDINANCE I.E. NO RESIDENTIAL DEVELOPMENT WILL BE ALLOWED, SECONDED BY COMMISSIONER DEVOS.** **Chairman DeBoer** expressed support for the motion but not to approve the ordinance since changes made to the ordinance were so voluminous with little justification. **Commissioner Horton** recalled residential development in the District has been a bone of contention from the beginning. **Chairman DeBoer** expressed confusion and being uncomfortable with the ordinance. **Commissioner Cummings** questioned if the ordinance addresses non-conforming residential uses. Ms. Williams requested clarification because some references to residential refer to residential on the boundary of the District. **Commissioner Devos** stated no residential within ECAP. **CALL ON THE MOTION TO REMOVE ALL RESIDENTIAL USES WITHIN ECAP: DECLARED UNANIMOUS.** **Commissioner Horton** commented in support of the grandfather language and stated he is not ready to make a decision on the language proffered by Attorney Berntsson. **Commissioner Cummings** stated he wants to make sure that the campground will not be grandfathered in since it is an intrusive and conflicting use. Ms. Williams explained the RV park would be grandfathered in but expansion is limited to existing

ownership boundaries. **Commissioner Cummings** stated the house owned by the McQueen family should be grandfathered; commented in support of definitions specific to ECAP; and expressed uncertainty that removal of residential development will eliminate the need for abrogation easements. Ms. Williams clarified that abrogation easements applied only to residential uses. **Chairman DeBoer** requested confirmation on Mr. McQueen's statement that changes were made since the last public hearing and copies were not made available to the public. Ms. Williams reiterated the changes that were enumerated at the beginning of the presentation. **Chairman DeBoer** advised the copy in his packet still shows the illustrations. Linda Carroll, Assistant County Attorney, explained deletions are shown with strike-throughs. **Chairman DeBoer** expressed his continued objection to the exception for the use of cyclone and barbwire fencing, stated the County should not be excused from regulations applicable to the private sector, the barbwire at the jail should be eliminated, changes need to be made to the sally port area, opined the comment made regarding the lack of permits pulled in the last two years is biased and did not expose all factors. **Chairman DeBoer** requested Board input on scheduling a workshop to discuss the ordinance on a section-by-section basis. **COMMISSIONER HORTON MOVED FOR APPROVAL TO SCHEDULE A WORKSHOP TO DISCUSS THE ORDINANCE.** **Commissioner Horton** suggested expediting work necessary to approve the ordinance in order to move forward with the Piper Road extension. **Commissioner D'Aprile** agreed. **Commissioner Horton** expressed his willingness to workshop the ordinance one more time. **Chairman DeBoer** stated the ordinance should be discussed a page at a time and to make and adopt changes on a section-by-section basis. **Commissioner Cummings** stated the public hearing has been closed and questioned the legal procedures i.e. would the ordinance have to go back to P&Z Board. **Commissioner Devos** expressed a desire to vote on the ordinance today. Attorney Whitehead stated two workshops have been held and the ordinance has been before P&Z Board once so the requirements of Florida Statutes have been met. **Chairman DeBoer** pointed out the public hearing could be reopened and continued to a specific date and time. Attorney Carroll advised changes in the definition section to the Zoning Code would require publication of the notice change as a new ordinance and suggested this might be circumvented by keeping the definitions where they are and more clearly identify them in the title as an airport façade. **Commissioner D'Aprile** questioned if the

ordinance can be brought back to be amended if it is approved today. Attorney Carroll responded affirmatively. **Commissioner Devos** reiterated her desire to vote on the ordinance. **COMMISSIONER HORTON WITHDREW THE MOTION.** **Commissioner Devos** pointed out the exclusion of residential uses from ECAP, grandfathering has been clarified, issues relating to definitions might be brought back, and questioned if the language proposed by Attorney Berntsson and that recommended by staff accomplish the same thing. Attorney Carroll referenced page 11, paragraph (2)(a), "New development. Any new development in the ECAP district that is not otherwise exempt from this section shall comply with the design and development standards contained herein. Any new development of a party (or successor-in-interest) to the settlement agreement beginning at OR Book 02373, Page 0819, Office of the Clerk, Charlotte County, Florida, shall comply with the design and development standards contained therein to the extent of any variation from requirements of this zoning district...." **Commissioner Devos** requested clarification on whether paragraph (2)(a) on page 11 is the same as the language proffered by Attorney Berntsson. Attorney Carroll stated the language proposed by Attorney Berntsson would over ride the settlement agreement and provide his clients with greater rights than they are entitled to under the settlement. **Commissioners Cummings and D'Aprile** concurred with staff's proposed language. **COMMISSIONER DEVOS MOVED FOR APPROVAL TO ENACT ORDINANCE #2004-050 AS REVISED WITH THE DELETION OF RESIDENTIAL USES WITHIN THE ENTERPRISE CHARLOTTE AIRPORT PARK, SECONDED BY COMMISSIONER HORTON.** Chairman DeBoer reiterated the Board had the option of reconsidering the vote to close the public hearing and set it has a continuation. **CALL ON THE MOTION: MOTION CARRIED 4:1 WITH CHAIRMAN DeBOER OPPOSING THE MOTION.**

MEETING ADJOURNED: 5:45 P.M.

Matthew D. DeBoer
Chairman

ATTEST:

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

By: _____
Deputy Clerk

cwl/djn