

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**OCTOBER 12, 2004**

A regular meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Vice Chairman Thomas C. D'Aprile and Commissioners Adam Cummings, Sara Devos, and Mac V. Horton. Also in attendance were County Administrator Bruce D. Loucks, Interim County Attorney Brendan Bradley, Chief Deputy Board Services Tommy Q. White, Executive Assistants to the Board of County Commissioners Stacey Miller and Bonnie Stoner, and Deputy Clerk Diane J. Nice. (**Chairman DeBoer was not present for the meeting.**) The meeting was called to order at **9:00 A.M.**

The **invocation** was given by Pastor Rick Sloan, Palm Tabernacle Ministries Inc., followed by the Pledge of Allegiance to the Flag.

**CHANGE TO THE AGENDA**

**Addition:**

**Regular  
Business**

Agenda Item Y-1, Economic Development - Set a Public Hearing on October 26, 2004, at 2:00 P.M., for the Charlotte County Community Redevelopment Agency to discuss the Charlotte Harbor Community Redevelopment Area.

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

**I. SPECIAL RECOGNITION**

**Proclamations:**

**THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING OCTOBER 2004 AS "FAMILY HISTORY MONTH" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS**

(4:0). Thomas N. Ryder, Charlotte County Genealogical Society President, accepted the proclamation.

THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING OCTOBER 2004 AS "JUDITH REHILL, ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0). Judith Rehill accepted the proclamation.

THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING OCTOBER 2004 AS "NATIONAL ARTS AND HUMANITIES MONTH" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0). Commissioner Devos indicated she will make sure the Council receives the proclamation.

THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING OCTOBER 18 through 22, 2004 AS "NATIONAL BUSINESS WOMEN'S WEEK" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0). Joann Thompkins, a nurse and business owner, accepted the proclamation and invited other women to join.

THE BOARD AGREED TO ISSUANCE OF A PROCLAMATION STIPULATING OCTOBER 12, 2004 AS "CHARLOTTE COUNTY EMPLOYEES DAY" ON MOTION BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0). Wayne Sallade, Emergency Management Director, introduced Emergency Planning Specialist Lisa Schaber, Operations Supervisor Jerry Mallet, and Telecommunications Manager Paul Winter; accepted the proclamation on behalf of all Charlotte County employees and government employees throughout the region including Constitutional Officers, City, and counties who came to Charlotte County's aid; and thanked Board Members for their support. **Vice Chairman D'Aprile** commended Mr. Sallade for driving 20+ hours from the mid-west to get here for the last hurricane.

**Employee Recognition:**

Bruce D. Loucks, County Administrator, and **Commissioner Devos** recognized the following employees for their service with the County: **Five Years** - Maryann Franks, Community Development Department and Wesley A. Millard, Public Works Department; **Ten Years** - Suzanne V. Stancati, Facilities, Construction, and Maintenance; Monty Rodriguez, Parks, Recreation, and Cultural

Resources; **Fifteen Years** - Daniel M. Pomerleau, Public Works Department and Raymond L. Walding, Firefighter/EMT; **Twenty Years** - Allen D. Rud, Public Works Department; and **Twenty-Five Years** - Sheldon J. Drake, Utilities Department.

**Vice Chairman D'Aprile** announced the Federal Emergency Management Agency (FEMA) extended the application filing deadline to December 11 or 12, 2004.

## **II. CITIZEN'S INPUT - AGENDA ITEMS ONLY**

Geri Waksler, a 20-year County resident, commended staff and the Board for expediting **Agenda Item G-1, Set two Public Hearings for a Text Amendment to the Zoning Regulations, Section 3-9 Charlotte County Code, creating the U.S. 41 Zoning District Overlay** in order to establish the framework for business owners that need to rebuild along the Corridor and requested staff be directed to set a meeting or informational session with U.S. 41 business owners to receive input prior to the public hearings.

## **III. COMMITTEE VACANCIES**

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

### **Affordable Housing Advisory Committee**

- one (1) Low Income Representative for a two-year term

### **Gulf Cove Street & Drainage Benefit Unit Advisory Committee**

- three (3) volunteers who reside in Gulf Cove for three-year terms

## **IV. REPORTS RECEIVED AND FILED**

Charlotte Harbor Community Redevelopment Agency Advisory Committee Minutes of Thursday, July 22, 2004 and Thursday, September 16, 2004

## **V. CONSENT AGENDA**

**COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE FOLLOWING ITEMS, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0).**

**CLERK OF THE CIRCUIT COURT**

**A. Finance Division**

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

- Memorandum #1 Status of Contingency Reserves - FY 02/03  
Memorandum #1A Status of Contingency Reserves - FY 03/04  
Memorandum #2 Total Disbursements for the period September 22,  
2004 through October 5, 2004 in the amount of  
\$18,983,457.71  
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., September 10, 2004 Regular BCC Meeting

**BOARD OF COUNTY COMMISSIONERS**

**C. Commission Office**

Agenda Item C-1

**Reappoint** Donna Elliott, Eugene J. Extejt, Earl Rooney, and Robert "Bud" Pearse to the Buena Vista, Grassy Point ELF Water Unit Committee.

**D. Administration**

No items.

**E. County Attorney**

No items.

**F. Budget Office**

Agenda Item F-1

**Grant #2004-021** to provide Federal and State Funds for Hurricane Charley and Tropical Storm Bonnie for eligible disaster relief

activities specifically described in approved Project Worksheets (FEMA-1539-DR-FL) which are currently being prepared by staff and FEMA representatives; the grant agreement is necessary for release of reimbursement funds; the FEMA portion will be at least 75% and an announcement has not been made on whether the Federal Government will approve a 90% reimbursement so the State's cost share has not been determined.

**G. Community Development**

Agenda Item G-1

**Set Public Hearings on October 26, 2004 at 10:00 A.M. and November 9, 2004 at 2:00 P.M.,** for a Text Amendment to the Zoning regulations, Section 3-9 Charlotte County Code, creating the U.S. 41 Zoning District Overlay, and electing to hold the second hearing at a time other than after 5:00 P.M. in accordance with Section 125.66, Florida Statutes. **Commissioner Cummings** suggested a mailer be sent out to business owners in the event staff cannot hold a meeting prior to the October 26, 2004 public hearing. **Vice Chairman D'Aprile** concurred. **Commissioner Devos** suggested discussion and input from business owners on deliveries if customer parking is moved to the rear of buildings. **Commissioner Cummings** suggested scheduling a tour of Celebration with their planner. **Vice Chairman D'Aprile** agreed with **Commissioner Cummings** on scheduling a tour.

Agenda Item G-2

**Resolution #2004-212** establishing the Manasota and Sandpiper Key Advisory Committee and the initial Committee membership. **Commissioner Horton** requested the process for establishing the initial membership. Attorney Bradley explained the resolution provides for Steering Committee members to serve as initial members. **Commissioner Horton** pointed out 12 members serve on the Steering Committee. Attorney Bradley stated the Advisory Committee would originally have 12 members, the Board will select members after the initial term, and this process has been followed with other Advisory Committees. **Commissioner Horton** stated people are lining up in Englewood to obtain permits prior to implementation of new standards.

Agenda Item G-3

**Set a Public Hearing on November 16, 2004, at 2:00 P.M.** to discuss the Transfer of Density Units (TDU) ordinance.

**H. Economic Development**

Agenda Item H-1

**Set a Public Hearing on October 26, 2004, at 10:00 A.M.** to consider a resolution designating a Brownfield Area pursuant to Sections 376.77-376.85 Florida Statutes.

**J. Environmental Services**

No items.

**K. Facilities Construction and Maintenance**

Agenda Item K-1

**Agreement #2004-047** amends Agreements #2003-015 and #2001-069 with the City of Punta County involving Courthouse renovations. **Commissioner Horton** requested renovations status, funding, expenditures, and the City's position. Michael Sheridan, Facilities, Construction, and Maintenance Director, advised the City of Punta Gorda Council has signed the interlocal agreement, the funding set out in the agreement will be used for exterior renovations, another agreement will be needed for additional work, and the renovations will be paid for by a 50/50 split between the City and County. **Vice Chairman D'Aprile** requested the amount. Mr. Sheridan responded \$352,000 for each party and the total price tag is unknown at this time. **Commissioner Cummings** requested the Courthouse be added to the list for Downtown economic recovery. **Vice Chairman D'Aprile** agreed.

**L. General Services**

Agenda Item L-1

**Award Bid #04-332, Reinforced Concrete Culvert Pipe - Elliptical**, to the lowest responsive bidder, Rinker Materials, Inc., Fort Myers, FL, at the unit prices indicated on their Bid Forms, with the contract period to extend from the time of award

through September 30, 2005; and **Authorize the Administrator** to approve renewal options for up to two (2) additional one-year terms at the same prices, terms, and conditions by mutual consent.

Agenda Item L-2

**Deletion of Property Inventory Items for September 2004.**

Agenda Item L-3

**Award Bid #04-377, Supply Asphalt Concrete**, to two bidders: (1) Asphalt Developers, Inc., Punta Gorda, FL, for Type S-2, Type S-111, Type III, and Sand Mix; (2) APAC-Southeast, Inc. for Asphalt Base Course Type 3, Friction Course Type 2 without rubber, and Friction Course Type 3, for contract periods from the date of award through September 30, 2005; and **Authorize the Administrator** to approve renewal options up to two (2) additional one-year terms at the same prices, terms, and conditions by mutual consent.

Agenda Item L-4

**Approve Addendum #12 to Contract #01-125, Sarasota/Charlotte County Beach Restoration Study**, with Coastal Technology Corporation, Sarasota, FL, for additional professional services in conjunction with Charlotte County Erosion Control Project - Phase 1, as set forth by the Scope of Work, in the amount of \$112,064.

**M. Human Resources**

No items.

**N. Human Services**

Agenda Item N-1

**Resolution #2004-213** amends Resolution #2001-196 revising the Local Housing Assistance Plan (LHAP); **Agreement #2004-048** with the Housing Corporation of Charlotte County (HCCC) to provide emergency assistance funding to hurricane victims for the remainder of the State FY 04 by increasing SHIP purchase price and property value limits to \$140,000 and by suspending the

requirement for three quotes and eliminating references to SHIP limits in the HCCC contract, and to authorize the committee to seek State approval of the revision to the LHAP; and accept and go on record to the Florida Housing Finance Corporation in support of the letter from Affordable Housing Advisory Committee encouraging FHFC to consider funding of more than one multi-family project per county.

**P. Information Technology**

No items.

**Q. Parks, Recreation & Cultural Resources**

No items.

**R. Public Safety**

No items.

**S. Public Works**

No items.

**T. Real Estate Services**

Agenda Item T-1

**Resolution #2004-214** and County Deed releasing a portion of a ten (10) foot wide utility and drainage easement located in Lot 13, Block 619, Port Charlotte Subdivision, Section Forty-One (41) in Charlotte County, FL, to James M. Okell and Barbara A. Okell to enable the use of a portion of the easement as part of the proposed improvement's overall building footprint.

Agenda Item T-2

**Resolution #2004-215** and County Deed releasing portions of two ten (10) foot wide utility and drainage easements located in Lots 1 and 2, Block 1354, Port Charlotte Subdivision, Section Thirteen (13) in Charlotte County, FL, to Philip C. Salone and Diane M. Salone to enable the use of the two lots as a single building site for construction of a single-family residence.

Agenda Item T-3

**Resolution #2004-216** and County Deed releasing a portion of a twenty (20) foot wide canal maintenance easement per Official Records Book 1591, Pages 1746 through 1752 of the Public Records of Charlotte County, FL, located in Lot 624, Block 2091, Port Charlotte Subdivision, Section Thirty-Six (36), in Charlotte County, FL, to Theodore D. Bailey and Deborah A. Bailey to clear title to the property for improvements constructed circa 1977 when the current owners were not owners of record at the time of construction.

Agenda Item T-4

**Resolution #2004-217** endorsing **Agreement #2004-049** and other necessary documents for the lease of approximately 16,000 square feet of warehouse and office space located at 5474 Williamsburg Drive, Punta Gorda, FL, for the relocation of the Public Works Fleet Department due to extensive damage sustained during Hurricane Charley.

**V. Tourism Development**

No items.

**W. Utilities**

No items.

**VI. REGULAR AGENDA**

**Y. Regular Business**

Agenda Item Y-1, Set a Public Hearing on October 26, 2004, at 2:00 P.M. for the Charlotte County Community Redevelopment Agency (CRA) to discuss the Charlotte Harbor Community Redevelopment Area

**COMMISSIONER CUMMINGS MOVED FOR APPROVAL TO SCHEDULE A PUBLIC HEARING ON OCTOBER 26, 2004, AT 2:00 P.M. FOR THE CHARLOTTE COUNTY CRA TO DISCUSS THE CHARLOTTE HARBOR COMMUNITY REDEVELOPMENT AREA, SECONDED BY COMMISSIONER HORTON AND DECLARED UNANIMOUS (4:0).**

VII. PUBLIC HEARING AGENDA

Z. 10:00 A.M. Public Hearing

No items.

VIII. PRESENTATION AGENDA

AA. 10:00 A.M. Presentation

No items.

BB. County Administrator

Mr. Loucks referenced the October 12, 2004 Hurricane Recovery Fact Sheet concerning the ongoing advertisements in newspapers and on the radio. Mr. Loucks suggested canceling the October 19, 2004 Board meeting since very items are on the consent agenda. **COMMISSIONER HORTON MOVED TO CANCEL THE OCTOBER 19, 2004 BOARD MEETING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).** Mr. Loucks reported staff met based upon Board discussion last week on the letter received from Robert (Bucky) McQueen on staging of housing on private property within the Airport Overlay District; advised staff and the Corps of Engineers are preparing a site of County-owned property to be used for temporary housing for people displaced by the storm at no cost to the individuals; and stated Mr. McQueen has requested the same type of waivers on zoning for a private venture to provide a staging site for manufactured housing to be sold in the County. **Commissioners Cummings and Devos** expressed opposition based on the lack of control of the staging site on private land. **Commissioner Horton** requested clarification on the use of a staging area or a site for temporary housing. Mr. Loucks expressed understanding that it would be a staging area for houses as they are sold to be placed in the community. **Commissioner Horton** concluded the units would not be used as residential units but for a sales operation and expressed no objection. **Commissioner Devos** expressed concern about the lack of assurances that the staging area would be used solely for a sales operation. Mr. Loucks stated only telephone conferences have been held with Mr. McQueen and suggested Mr. McQueen be asked to submit a written business proposal for the Board's review and discussion. **Vice Chairman D'Aprile and Commissioner Devos** agreed. **Vice Chairman D'Aprile** requested the number of

units. Mr. Loucks expressed uncertainty regarding the number of manufactured homes and indicated the staging area would be used to prepare the homes for location on the permit site. **Vice Chairman D'Aprile** requested more information before voting on the request. **Commissioner Cummings** stated, even though he is apprehensive about the site possibly becoming a dealership, he is willing to consider proposal on a very cautious level but if the proposal is not consistent with the Overlay District standards, he will not be willing to support it.

**XI. CITIZENS INPUT - ANY SUBJECT**

Steven Sweetwood reported (1) the lack of right-hand turn lanes on four lane roads causes accidents, (2) heroine use in the County is very high and the Sheriff's Office is probably understaffed and under funded, (3) Commissioners are being gamed by lobbyists and staff as evidenced by discussions relating to highest and best use zoning changes, (4) violations of the Florida Constitution, Section 25 that creates an affirmative duty for government to act fairly with taxpayers, taxing people on property that does not exist is unfair and Sections 2, 6, 10, and 17 create an affirmative duty to reward industry, allow people to work, make contracts, and be free of excessive punishments yet it is a felony for a handyman to replace a screen door; and advised he will be sending letters to each Board Member about the low status the County has achieved on the crime index and how it might be improved.

B.J. Galberaith, a Manasota Steering Committee member, expressed appreciation to the Board for establishing the Advisory Committee, offered to provide the names of the 10 Steering Committee members, advised others who have expressed an interest in serving will be placed on subcommittees for the first year to get them acclimated since some regular members will be willing to step down in the future.

Nancy Griswold stated she and her husband reside on Easy Street, commented on residents' concerns about the sale of First Christian Church and the rumors that Big Brothers/Big Sisters will be purchasing the Church, and requested the process that would be required for rezoning and notification of residents. **Vice Chairman D'Aprile** advised residents located within a certain radius would be notified of rezoning changes.

**CC. County Attorney**

Attorney Bradley stated each Board Member received a letter from a resident in the Panhandle that owns 40 acres in South County complaining about the Stormwater assessment and offered to send a letter on behalf of the Board in lieu of each Commissioner sending a response. **Vice Chairman D'Aprile** stated the letter was about reducing the Stormwater taxes. Mr. Bradley stated the owner is complaining that the \$800 assessment is more than the assessed value of the vacant property and offered to review options and consult with the property owner.

**DD. Commissioners Comments**

**Commissioner Horton** commented on the letter from the Palm Island Estates Association to stop the present bid on the Kosinski Bridge replacement, direct the Department of Public Works to accept their choice of alternative bridge materials based upon increased cost concerns, and suggested delaying the bid award for 30 days or until the next Board meeting. **Commissioner Devos** recalled problems occurred with materials selected last time by property owners and expressed an interest in doing the job right since she may become a property owner in December in that vicinity. **Commissioner Horton** reported between 40 and 50 residents met last Saturday and opposed the current bid. Thomas O'Kane, Public Works Director, advised the bid opening was postponed due to the hurricanes and rescheduled for this month with award to be brought to the Board in November. **Commissioner Horton** calculated today is the 22-day deadline for correction of deficiencies on the Beirut building (Edgewater Building) and requested the status to proceed with legal action. Attorney Bradley reported the notice was received on September 16, 2004 and the 22-business day deadline will be October 18, 2004; related they were obtaining forms to apply for a variance, which is consistent with the next step in the process. **Commissioner Devos** recalled the variance application must include all issues. **Vice Chairman D'Aprile** concurred and stated he will be very firm about the October 18, 2004 deadline. Attorney Bradley agreed. **Commissioner Horton** opined a declaratory judgment should have been entered two years ago. **COMMISSIONER HORTON MOVED FOR RECONSIDERATION OF THE BOARD'S VOTE ON OCTOBER 5, 2004 TO DENY TRANSMITTAL OF THE LARGE SCALE PLAN AMENDMENT ON PROPERTY ADJACENT TO SOUTH JONES LOOP ROAD, PETITION PA-04-05-18-LS FILED BY KB HOMES FT. MYERS LLC, SECONDED BY COMMISSIONER DEVOS.**

Attorney Bradley requested verification that **Commissioner Horton** voted on the prevailing side. **Commissioner Horton** recalled he was one of three Commissioners who voted to deny transmittal of the petition; advised he has received information from the attorney and developer subsequent to the public hearing that density will be less than three units not the potential five units per acre; a restriction to that effect may be placed at the time of the Planned Development approval; the 40 units to be transferred from Harbour Heights are on substandard lots that would qualify for Scrub Jay habitat; commented on the need to evaluate the Comprehensive Plan to avoid spot zoning changes; and expressed concern about the timing that the Transfer of Development Units (TDUs) are presented to the Board. **Vice Chairman D'Aprile** recalled his vote to deny was based upon the uncertainty about the number of units per acre. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0). COMMISSIONER HORTON MOVED TO APPROVE TRANSMITTAL OF PETITION PA-04-05-18-LS TO THE DEPARTMENT OF COMMUNITY AFFAIRS FOR AN OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT, SECONDED BY COMMISSIONER CUMMINGS.** **Commissioner Cummings** stated the reconsideration does away with the denial and questioned the legality of approving the transmittal since the reconsideration was not done at a public hearing. Attorney Bradley stated another public hearing would be necessary if additional testimony is desired; the public hearing on October 5, 2004 was closed; and the Board may make the decision today without another public hearing if additional information is not needed. **Commissioner Horton** advised he changed his vote based upon information he received after the public hearing. Attorney Bradley responded a public hearing should be set to hear rebuttal. **COMMISSIONER HORTON WITHDREW THE MOTION AND COMMISSIONER CUMMINGS WITHDREW THE SECOND TO THE MOTION.** Attorney Bradley suggested the public hearing be set for the next Board meeting. Michael Konefal, Community Development Director, explained the large scale Comprehensive Plan amendments are submitted as a package twice a year; if the package is delayed, then the Murdock Village amendment will be delayed; and suggested delaying the public hearing on the transmittal until the next cycle to avoid delaying Murdock Village. Attorney Bradley recommended the Board reconsider transmittal of this particular petition and delay it until the next package transmittal. **Commissioner Devos** opposed delay of the Murdock Village transmittal and expressed understanding that the Board may not vote to transmit the petition today because **Commissioner Horton** received information after the fact.

Attorney Bradley stated that would be considered an ex-parte communication since **Commissioner Horton** received the information from interested parties. **Commissioner Horton** commented in support of setting another public hearing. **Vice Chairman D'Aprile** noted transmittal of the petition will be set for another public hearing. Attorney Bradley expressed understanding that the Board does not want to delay the Murdock Village transmittal. **Commissioner Devos** requested a joint meeting be set with the City of Punta Gorda Council and the School Board to discuss and solidify the long range recovery plan. Mr. Loucks offered to schedule the joint meeting. **Commissioner Devos** suggested participants submit project lists prior to the meeting in order to make final decisions. **Vice Chairman D'Aprile** indicated he has received numerous inquiries about serving on the Auditorium Advisory Committee and requested the number of members. Mr. Loucks reported he has contacted Economic Development Manager Betty Williams who will be setting a Committee meeting for next week; expressed understanding that this would not be a Board appointed Advisory Committee; if that is the case, they will move forward with the lists, names received, and Friends of Auditorium group to review and discuss options for the Auditorium and the Courthouse. **Commissioner Cummings** suggested a member of the Downtown Merchants Association should serve on the Advisory Committee. Mr. Loucks stated the Committee should be comprised of a manageable number of stakeholders and indicated the meetings will be open and advertised for public attendance. **Commissioner Devos** recommended coordinating efforts with the Parks and Recreation Committee. Mr. Loucks stated Ms. Williams is coordinating the effort and she will be getting input from the Parks and Recreation Committee. **Vice Chairman D'Aprile** offered to provide the requests and inquiries he has received for notification of the meeting. **Vice Chairman D'Aprile** requested direction on a letter received from the Marine Advisory Committee on a motion that was declared unanimous to draft a letter to the Parks and Recreation Department asking that a kayak trial be established on Coral Creek with crossing points at the main channel and to hold a joint meeting with the Advisory Committee and four property owners and expressed uncertainty of the procedures to bring the request before the Board. Mr. Loucks advised all capital ad valorem funded projects were cut out of the Capital Improvements Program (CIP); suggested a written request be submitted so a review can be conducted to ascertain the availability of grant funding prior to bringing it to the Board.

**Vice Chairman D'Aprile** stated he will advise the Marine Advisory Committee at this Thursday's meeting on the uncertainty of grant funding and he will also consult with Grant/Management Analyst Robert Hebert. **Commissioner Cummings** pointed out sunshine committees, i.e. Marine Advisory Committee and the Parks and Recreation Advisory Committee, might hold a joint meeting as long as it is properly advertised. Attorney Bradley nodded in the affirmative. **Commissioner Cummings** stated, based upon Mr. Loucks' remarks, the issue would be moot at this time but the Committees could hold a joint meeting. **Vice Chairman D'Aprile** indicated he would transmit the direction to the Marine Advisory Committee and Parks, Recreation, and Cultural Resources Director Laura Kleiss-Hoeft. **Commissioner Devos** asked Attorney Bradley to provide information for the joint meeting regarding the reverter clause on the Auditorium since it might be a good time to consider a public/private relationship. **Commissioner Devos** questioned if the County pays for advertisements on radio and in newspapers for public awareness of useful information. Mr. Loucks responded affirmative. **Commissioner Devos** opined, at the least, newspapers should provide space on a weekly basis as a public service. Mr. Loucks stated conversations have been held with newspaper representatives on this issue. **Commissioner Horton** volunteered to serve on the Auditorium Advisory Committee. **Vice Chairman D'Aprile** requested **Commissioner Horton** ascertain the City Council's willingness to agree to a particular development idea. **Commissioner Horton** stated he has been approached by some of the stakeholders. **Vice Chairman D'Aprile** stated the joint meeting should give everyone an opportunity to put their best foot forward to restore the Courthouse and the Auditorium and take advantage of available funding opportunities.

**RECESS: 10:25 A.M. - 2:00 P.M.**

(Executive Assistant Jenine Thornley replaced Executive Assistants Stacey Miller and Bonnie Stoner and Supervisor of Minutes Caroline W. Lounsbury replaced Deputy Clerk Diane Nice for the remainder of the meeting. Tommy Q. White, Chief Deputy Board Services was not present for this portion of the meeting.)

**X. PETITION AGENDA**

**EE. 2:00 P.M. ZONING CODE TEXT AMENDMENT (QUASI-JUDICIAL)**

Agenda Item EE-1, Ordinance pertaining to front yard requirements in the Charlotte Harbor Community Development Code; providing for the amendment of subsection 3-9-50.5 (a) (E) (g), subsection 3-9-50.5 (a) (F), and subsection 3-9-50.5 (a) (G) of the Code of Laws and Ordinances of Charlotte County, Florida; providing for a reduction of the maximum and minimum front yard requirements in the mixed use, commercial neighborhood, commercial tourist, commercial general, and commercial intensive zoning districts in the Charlotte Harbor Community Redevelopment Area; providing for conflict with other ordinances; providing for severability; and providing for an effective date. (Proof of publication was in order.)

**(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.)**

**(Attorney Bradley administered the oath to prospective witnesses.) (Vice Chair D'Aprile polled the Board for Ex-Parte Disclosures. Vice Chair D'Aprile stated he has spoken to the CRA Chairman and will fill out the necessary paperwork.) (Commissioner Devos was present for the remainder of the meeting.)** Jorge Perez, Planner II, stated that Charlotte Harbor zoning districts that allow commercial uses include Mixed Use, Commercial Neighborhood, Commercial Tourist, Commercial General and Commercial Intensive; these zoning districts are generally located along central thoroughfares and benefit from exposure to these corridors. Mr. Perez stated that current front yard requirements in these zoning districts provide that no structure shall be built within 20 feet from the front property line. Mr. Perez stated this requirement, when applied to older lots, presents a challenge for redevelopment within Charlotte Harbor. Mr. Perez stated approval of the proposed ordinance will allow developers of commercial properties to build up to the property line, or leave up to nine feet of space between the façade and the front property line. Mr. Perez stated that the Community Development Department recommends the adoption of the proposed ordinance and the Charlotte Harbor Community Redevelopment Agency Advisory Committee (CRAAC) recommended the adoption of the proposed ordinance on September 16, 2004. **(Board discussion ensued regarding parking on Oakley Street.)** Commissioner Devos questioned if the County will be encouraging parking off US 41.

Mr. Perez responded affirmatively. Richard Loftus, Chair of the Charlotte Harbor Community Redevelopment Agency Advisory Committee urged approval of the proposed ordinance. Bruce "inaudible" questioned if you had a corner lot what would the set backs be. Mr. Perez stated the minimum set back would be zero. Mr. Perez responded affirmatively. "Sheena" Wahl questioned if parking underneath be handicapped accessible. Attorney Bradely responded affirmatively. **COMMISSIONER HORTON MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).** Commissioner Horton commented on properties that don't have space on the side or the rear and questioned where would their parking be. Mr. Perez stated the buildings that were not substantially damaged recently, those will bear in kind to what type of parking they originally had. Mr. Perez stated the buildings that need to be rebuilt and redesigned to current standards, you may not be able to get the same square footage you had before. **Commissioner Horton** commented on a business being totally destroyed which needs to be rebuilt, can have a zero lot line in front and questioned if there would be any parking provided by the County in the right-of-way. Mr. Perez stated the CRA has provisions that aren't seen anywhere else in the County, i.e. Carrabas Restaurant and the Veterian have an agreement to share the parking facility because they operate at different times. **Commissioner Horton** stated an individual can decide to use zero lot line but it's not mandatory. Mr. Perez stated if you were going to rebuild and redesign your site, your building would have to be to the front line. **Commissioner Devos** stated this can only be done in the CRA area. Mr. Perez responded affirmatively. Attorney Bradley stated there is zero to nine feet, but you don't have to build at zero, but from zero to nine feet. **Commissioner Horton** stated he now has a choice of what he can do. **Commissioner Horton** stated he would like sidewalks connecting to each of the businesses. Mr. Perez stated this would be part of the US 41 Beautification Plan. **Commissioner Horton** stated this is a good idea and he likes it. **Commissioner Devos** thanked all the folks who worked so diligently on bringing this ordinance to the Board of Charlotte County Commissioners. **Commissioner Horton** questioned as why we couldn't apply this concept to all of US 41. Mr. Perez informed the Board that they will have the option to do this. (Assistant County Administrator Rodger Baltz replaced County Administrator Bruce D. Loucks for the remainder of the meeting.) **COMMISSIONER CUMMINGS MOVED FOR APPROVAL OF THE ENACTMENT OF ORDINANCE #2004-**

**064 BASED ON THE FINDINGS AND ANALYSIS CONTAINED IN THE PLANNING AND ZONING STAFF REPORT DATED SEPTEMBER 30, 2004, AND THE EVIDENCE PRESENTED AT THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS.** Commissioner Devos stated for the record that she and husband are in the process of purchasing property within the CRA, but it is residential property and has nothing to do with the US 41 corridor. Vice Chair D'Aprile questioned Commissioner Devos as to whether or not she has had any ex-parte communications. Commissioner Devos stated she didn't. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).** Mr. Baltz commented on the letter received from Mr. McQueen to Mr. Loucks and a copy of his response to Mr. McQueen which was distributed a few moments ago. Mr. Baltz questioned if there was any action the Board wished to take at this time with regard to Mr. McQueen's request. Vice Chair D'Aprile stated this is the first time he has received this letter, hasn't had any time to review it and wishes to postpone it until the next Board's meeting. Commissioner Cummings stated that his recollection is if one of the Board Members are asking more time to review an issue, there isn't a written policy, but we do grant it if the Board Member isn't comfortable in giving an answer off the cuff. Commissioner Devos questioned as to why she has this in front of her now. Commissioner Devos stated this should first go to staff, a presentation to the Board and questioned as why we're even having any dialogue on this issue. Mr. Baltz stated that Mr. McQueen needs an answer in five days. Commissioner Devos stated she is very uncomfortable in giving an answer now. Commissioner Horton stated that Mr. McQueen felt this issue was something that the BCC should make a decision, our Administrator was being pressured and he thought it should be brought to the Board's attention and he feels that Mr. Loucks did the right thing. Commissioner Horton stated we do need additional information. Commissioner Cummings stated that Mr. Loucks done the appropriate thing by just informing us of the situation and under these circumstances supports the Administrator's efforts to obtain a clear picture. Commissioner Devos concurred with Commissioner Cummings' comments. Attorney Bradley commented on the lady that owns 40 acres of wetlands completely surrounded by State land with no access and questioned the benefit of a storm water assessment. Attorney Bradley stated that Public Works will remove this property from the assessment roll. Commissioners Horton and Cummings complimented Vice Chair D'Aprile on the excellent job he done today in chairing the

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meeting. **Vice Chair D'Aprile** reiterated his comments of being given short notice to review this issue.

**MEETING ADJOURNED: 2:45 P.M.**

Signature on file in Commission Minutes  
Matthew D. DeBoer  
Chairman

**ATTEST:**

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

**By: Signature on file in Commission Minutes  
Deputy Clerk**

djn/cwl