

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

JANUARY 10, 2006

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: Chairman Thomas G. Moore and Commissioners Thomas C. D'Aprile, Adam Cummings, and Sara J. Devos. Also in attendance were Assistant County Administrator Kelly Shoemaker, County Attorney Janette S. Knowlton, Chief Deputy Board Services Tommy Q. White, Executive Assistant to the Board Bonnie Stoner and Deputy Clerk Gail Manley. The meeting was called to order at 9:00 A.M. (Commissioner Matthew D. DeBoer was not present for the meeting.)

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

CHANGES TO THE AGENDA

CHANGES: Agenda Item BB-1 - Budget Office - Open Workshop at 10:00 a.m. and continue to 1:00 p.m.

ADDITION: Proclamation for Classical Music Day, January 22, 2006.

Agenda Item Y-4 - Commission Office - Reappoint Bruce C. McLean to the Beaches & Shores Advisory Committee representing District III.

Agenda Item D-1 - Administration - Add FY06 Budget Amendment #06-A012 for \$750,000 inadvertently left off Agenda.

COMMISSIONER D'APRILE MOVED APPROVAL OF THE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0). Chairman Moore explained the purpose and procedure of opening BB-1 at 10:00 a.m. and continuing to 1:00 p.m.

I. SPECIAL RECOGNITION

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING JANUARY 2006 AS "CRIME STOPPERS MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Proclamation accepted by unidentified citizen.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING THE WEEK OF JANUARY 22-28, 2006 AS "HAZARDOUS MATERIALS AWARENESS WEEK" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Wayne Sallade, Emergency Management Director, accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FOR THE MONTH OF JANUARY 2006 THERE BE RECOGNITION FOR "PHILLIP TETERS, ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Philip Teters accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING JANUARY 16, 2006 AS "MARTIN LUTHER KING, JR. DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Proclamation accepted by unidentified citizen.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION RECOGNIZING AND THANKING SOUTH SEAS ISLAND RESORTS AND THE INTERFAITH INTERAGENCY NETWORK OF CHARLOTTE COUNTY FOR THEIR GENEROSITY AND EFFORTS THAT BENEFITED MANY FAMILIES IN THE COMMUNITY FOLLOWING THE DEVASTATION OF HURRICANES CHARLEY, FRANCES AND JEANNE DURING AUGUST AND SEPTEMBER, 2004 ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Proclamation accepted by several unidentified citizens. Brenda Baliff, President of Interfaith Interagency Network of Charlotte County, presented an award to Joe (Pontiff) of South Seas Island Resorts. Joe (Pontiff) accepted the Award. **Commissioner Devos** recognized the efforts of Ron Thomas, Charlotte County Habitat for Humanity Executive Director, and the students who donate their time. Mr. Thomas acknowledged the donations and the volunteers through the many organizations.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING JANUARY 22, 2006 AS "CLASSICAL MUSIC DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Proclamation accepted by Muriel Van Patten, President of Friends of Music.

Employee Recognition:

Kelly Shoemaker, Assistant County Administrator, and **Commissioner Cummings** recognized the following employees for their service with the County: **Five Years** - Jim Anderson, Building Construction Services; Robert Chapman, Public Works; Bruce Morris, Utilities; Bruce Schellinger, Utilities; Wendy Scott, Metropolitan Planning Organization (MPO); Thomas Macchia, Fire/EMS; Valeen King, Human Services; **Ten Years** - David Spencer, Public Works; **Fifteen Years** - Denise Caruthers, Utilities; Henry Eisenmann, Jr., Parks, Recreation, and Cultural Resources; **Twenty Years** - Douglas Denison, Fire/EMS; and **Twenty-Five Years** - Gordon Clay, Fire/EMS; Michael Harper, Fire/EMS.

II. CITIZEN INPUT - AGENDA ITEMS ONLY

Bruce Pomery congratulated the County Commission and Employees for an outstanding job done over the past year and a half and addressed **Agenda Item BB-1, Impact Fee Workshop**. Mr. Pomery stated impact fees are low, something should be done, and schools incorporated. Mr. Pomery expressed concern with the additional traffic that will be generated with all the new construction; some means of finance should be found to complete the Aquí Esta project; and citizen input is needed to identify priorities in Charlotte County. Ron Thomas, Charlotte County Habitat for Humanity Executive Director, addressed Agenda Item BB-1, Impact Fee Workshop; stated many items have increased in cost significantly, but cost of volunteers is still zero; and requests consideration be given to freezing charitable, affordable housing impact fees on the blueprint small home to the current rate for a five-year period because wages versus housing fees are still off in Charlotte County.

III. COMMITTEE VACANCIES

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

Board of Zoning Appeals

- one (1) applicant in District # 4. (Appointee on Agenda)

Construction Industry Licensing Board

- one (1) volunteer to represent the Professional Engineer category.

Grove City Street & Drainage MSBU Committee

- one (1) volunteer needed - applicant must be a landowner and a full-time resident residing within the Unit.

Englewood East Street and Drainage Advisory Committee

- one (1) vacancy for an alternate position for a 2-year term. (Appointees on Agenda)

Planning & Zoning Board Representative

- one (1) applicant who must reside in District #4 for a term that expires May 2008.

Murdock Village Community Redevelopment Agency Advisory Committee

- one (1) Contractor Representative.

South Gulf Cove Community Plan Advisory Committee.

- one (1) volunteer needed to fill a term, which will expire on June 14, 2007. Applicant must own property and be a full-time resident living within the boundaries of the Unit. (Appointee on Agenda)

IV. REPORTS RECEIVED AND FILED

1. Englewood Area Planning Advisory Board, Minutes of November 10, 2005 Meeting.
2. Charlotte Harbor Community Redevelopment Agency Advisory Committee, Minutes of October 27, 2005 Meeting.

3. Charlotte Harbor Community Redevelopment Agency Advisory Committee, Minutes of November 17, 2005 Meeting.

V. CONSENT AGENDA

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

CLERK OF THE CIRCUIT COURT

A. Finance Division

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

- Memorandum #1 Status of Contingency Reserves - FY 04/05
Memorandum #1A Status of Contingency Reserves - FY 05/06
Memorandum #2 Total Disbursements for the period December 7, 2005 through January 3, 2006 in the amount of \$32,023,522.00
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 21, 2005	Land Use Public Hearings
10:00 A.M., July 11, 2005	Revenue Workshop
9:00 A.M., July 12, 2005	BCC Regular Meeting
1:30 P.M. July 13, 2005	Budget Workshop
5:00 P.M. July 13, 2005	MSBU/TU Public Hearings (Lemon Bay)

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

Agenda Item C-1

Approve the appointment of April Chattinger to the South Gulf Cove Community Plan Advisory, to complete the unexpired term of Dick Miller. The term will expire on June 14, 2007.

Agenda Item C-2

Approve the appointment of Mr. Charles H. Witzke to the Buena Vista, Grassy Point ELF Waterway Unit Committee.

Agenda Item C-3

Approve the reappointment of David Nellis to the Beaches & Shores Advisory Committee representing District 2 for a four-year term.

Agenda Item C-4

Approve the appointment of Mr. Robert L. Stout as the District #4 representative on the Board of Zoning Appeals for a four-year term.

D. Administration

Agenda Item D-1

- (a) Grant #2006-001 in the amount of \$750,000 from the Florida Department of Community Affairs of a Community Development Block Grant for housing rehabilitation for low to moderate income individuals.
- (b) Authorize the Chairman of the Charlotte County Board of County Commissioners sign the Contract and **FY06 Budget Amendment #06-A012** for \$750,000.

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Agenda Item D-2

Resolution #2006-001 approving the issuance of Multifamily Housing Revenue Bonds, Series 2006 (Hampton Point Phase II Apartments), tax exempt bonds, in an amount not to exceed \$11,000,000, by the Charlotte County Housing Finance Authority (HFA) for the construction of 192 apartments for income qualified, non-elderly households.

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E. County Attorney

Agenda Item E-1

Approve a Motion to find all bonds in compliance and full effect at this time, and leave its formation and membership up to the discretion of the County Administrator or his designee.

Agenda Item E-2

Approve disbanding the negotiating committee appointed for the Babcock Ranch Developer's Agreement.

F. Budget Office

No agenda items.

G. Community Development

Agenda Item G-1

Set a Public Hearing on January 24, 2006, at 10:00 a.m., or as soon thereafter as the matter may be heard, to adopt an ordinance establishing building height standards in certain portions of the Charlotte Harbor CRA.

Agenda Item G-2

- (a) Set a Special Meeting to hear EAR-based plan amendments for Wednesday, **February 22, 2006 from 9:00 a.m. to 1:00 p.m.**
- (b) Set a Transfer of Density Units workshop for Wednesday, **January 25, 2006 from 10:00 a.m. to 12:00 p.m.**
- (c) Remove the provision for overflow days (every 3rd Wednesday of the month) for the BoCC Land Use Hearing Agenda, which is every 3rd Tuesday of the month.

Agenda Item G-3

Resolution #2006-002 granting Jack and Stacy Enterprises, Inc. a Major Modification (DRC-PD-80-4C(MM)) to an existing Partial Final Detail Plan Approval to authorize construction of the

Rally Food Store Lube Center and Carwash addition located within the Sandhill Addition DRI/PD on a site currently developed with a convenience store business.

Agenda Item G-4

Resolution #2006-003 granting Turnberry Bayshore, L.C., Partial Final Detail Plan Approval (DRC PD-80-4GGG) to construct Peachland Place, located within the Sandhill DRI/PD.

Agenda Item G-5

Resolution #2006-004 approving a Petition for Certification of a Sending Zone, Petition # CSZ-05-07-07 for Phyllis Judy Hitchcock, Robert A. Daughtry, and Randy L. Williams, approving and accepting a Declaration of Restrictive Covenant.

Agenda Item G-6

Set a Public Hearing on January 24, 2006, at 10:00 a.m., or as soon thereafter as the matter may be heard, for approval of PA-05-05-34-LS, a text amendment to the Recreation and Open Space Element.

H. Economic Development

Agenda Item H-1

Set a Public Hearing on January 24, 2006, at 10:00 a.m., or as soon thereafter as the matter may be heard, to adopt a Resolution approving an amendment to the Charlotte Harbor Community Redevelopment Plan that will modify the Plan.

Agenda Item H-2

Resolution #2006-005 confirming the Board of County Commissioners ex officio the Board of the Charlotte County Community Redevelopment Agency and outlining the administrative staff of the Agency.

J. Environmental & Extension Services

No agenda items.

K. Facilities Construction and Maintenance

No agenda items.

L. General Services

Agenda Item L-1

Award Bid # 06-046, Oyster Creek Flow Enhancement, for the clearing of approximately 16.50 acres of land, to Tarheel Specialties, Inc. of Lindon, NC, for a total cost of \$189,000.14.

Agenda Item L-2

Award of File #06-128 for the purchase of one (1) E-One AAir Air Truck on a 2006 Freightliner M2 two door chassis, to Hall-Mark Fire Apparatus of Ocala, Florida at the purchase price of \$248,356. (Piggyback off Orange County Contract #Y5-1072.)

Agenda Item L-3

Award the Sole Source purchase of File #06-125, Hurst Equipment for Fire/EMS to Team Equipment, Inc., of New Port Richey, Florida for the total cost of \$141,141.56.

Agenda Item L-4

- (a) **Award File #06-123** for the purchase of one (1) E-One D151 Tanker Truck on a 2006 International 7400 2-Door 4x4 chassis, to Hall-Mark Fire Apparatus of Ocala, Florida at the purchase price of \$235,036.00 (Piggyback off Orange County Contract #Y5-1072) for the Barrier Island Fire Unit.
- (b) **Budget Transfer #06-003** to allocate funds in the amount of \$235,036.00 in the Fire Rescue Fund for the purchase of the Tanker Truck. Barrier Island Fund will repay loan over five (5) years.

Agenda Item L-5

Deletion of property inventory items for the month of January 2006.

Agenda Item L-6

Change Order #1, (3rd year of Contract) to Contract #03-439, Beautification Mowing/Landscape Maintenance, with Veteran's Lawn Service of Port Charlotte, Florida, for the addition of four areas, in the amount of \$36,600.00 for a revised total amount of \$325,259.00.

Agenda Item L-7

Amendment #3 to Contract #03-456, Oyster Creek Regional Park - Construction Management, with Matthews Taylor Construction, LLC for the Guaranteed Maximum Price (GMP) of \$2,731,462.00 for the construction of a football field, parking lots, 25 yard swimming pool with diving well, pool building with locker rooms, paw park and all associated storm water management and infrastructure.

Agenda Item L-8

- (a) **Approve** the negotiations for Request for **Proposal #06-077, Aerial Photography Services** with the first-ranked firm, 3001, Inc. of Gainesville, Florida.
- (b) **Authorize** the Chairman to sign the contract after negotiations have been completed, as long as the fees do not exceed \$199,000.00.

Agenda Item L-9

- (a) **Approve** award of **RFP #06-078, Insurance Claims Preparation to Marsh FACS of Chicago, Illinois**, for the not-to-exceed amount of \$200,000.00.
- (b) **Authorize** the Chairman to sign the contract.

M. Human Resources

No agenda items.

N. Human Services

Agenda Item N-1

Grant #2006-002 for the annual Section 5310 grant application and authorizing **Resolution #2006-006** in the amount of \$131,300.00 for the purchase of one (1) replacement 18-passenger lift bus, and two (2) passenger vans.

Agenda Item N-2

Grant #2006-003 for the annual Section 5311 grant application and authorizing **Resolution #2006-007** providing \$31,417.00 funding approximately 6950 group trips provided by Transit Department buses for Charlotte County residents.

P. Information Technology

No agenda items.

Q. Parks, Recreation & Cultural Resources

No agenda items.

R. Public Safety

No agenda items.

S. Public Works

Set a Public Hearing on January 24, 2006, at 10:00 a.m., or as soon thereafter as it may be heard, to consider and adopt an Ordinance amending Charlotte County Code Section 4-7-200, Assessment Roll, and Section 4-7-204, Territory of the Alligator Creek Waterway Unit.

T. Real Estate Services

Agenda Item T-1

Resolution #2006-008 approving the release of portions of four (4) ten-foot (10') wide utility and drainage easements, two (2) are located in Lots 7 and 8, Block 665, Port Charlotte Subdivision, Section Forty-one, one (1) is located in Lot 15, Block 2303, Port Charlotte Subdivision, Section Twenty, and one (1) located in Lot 2, Block 1435, Port Charlotte Subdivision, Section Twenty-seven, all in Charlotte County, Florida; and

authorize the Director of Real Estate Services to execute County Deeds releasing said portions of the four (4) ten-foot (10') wide utility and drainage easements. (Owners: Glenda Fehr, and Billy Hall, Sr. and Karen Hall, and Christopher L. Coffey and Debra K. Drawdy.)

V. Tourism Development

No agenda items.

W. Utilities

Agenda Item W-1

- (a) **Grant #2006-004** between the Southwest Florida Water Management District and Charlotte County in the amount of \$435,000.00 for the study, design and construction of a Rotonda ASR well for reclaimed water (L215).
- (b) **Approve the Chairman** to execute the Cooperative Funding Agreement between the Southwest Florida Water Management District and Charlotte County for the study, design and construction of a Rotonda ASR well for reclaimed water.
- (c) **CIP Project Amendments #06-C06**, Rotonda Reclaimed Water ASR Well (NEW), and **#06-A11**, Reclaimed Water Expansion (c350601).

VI. REGULAR AGENDA

Y. Regular Business

Agenda Item Y-1, Commission Office - Reappoint Marilyn Walls and Charles Lindberg for an additional term, and select one person by ballot to serve as an alternate member to the Englewood East Street and Drainage Advisory Committee.

Chairman Moore pointed out this agenda item includes the reappointment of Marilyn Walls and Charles Lindberg for an additional term; and requested the Board members complete their ballots to select one person by ballot to serve as an alternate member to the Englewood East Street and Drainage Advisory Committee. **Chairman Moore** indicated there was a tie; there was a re-vote and a second tie; there was another re-vote; **Commissioner Cummings** announced there was one vote for Mr.

Michael Hadsell and three votes for Ms. Holly Giblin. COMMISSIONER CUMMINGS MOVED TO ACCEPT THE APPOINTMENT OF MS. HOLLY GIBLIN AS AN ALTERNATE MEMBER AND REAPPOINTMENT OF MS. MARILYN WALLS AND MR. CHARLES LINDBERG FOR AN ADDITIONAL TERM TO THE ENGLEWOOD EAST STREET AND DRAINAGE ADVISORY COMMITTEE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS (4:0).

Agenda Item Y-2, County Attorney - Set an Executive Session for January 17, 2006 at 2:00 p.m. or as soon thereafter, in the Administration Conference Room to discuss pending litigation against Mosaic and phosphate settlement.

COMMISSIONER DEVOS MOVED TO SET AN EXECUTIVE SESSION FOR JANUARY 17, 2006 AT 2:00 P.M. OR AS SOON THEREAFTER AS POSSIBLE, IN THE ADMINISTRATION CONFERENCE ROOM TO DISCUSS PENDING LITIGATION AGAINST MOSAIC AND PHOSPHATE SETTLEMENT, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).

RECESS 9:45 A.M. - 9:55 A.M.

Agenda Item Y-3, Utilities - Status update of existing and future water supplies for Charlotte County.

David G. Schlobohm, Utilities Director, gave a slide presentation update of existing and future regional water supply issues. Mr. Schlobohm indicated that at the January 4, 2005 workshop there was an immediate concern that water sources be diversified, which is being done, and what the update is on today. Mr. Schlobohm stated brackets around water supplies shown in the Projected Demand vs. Existing Water Supply Table is not good and indicates challenges to meet water supply needs of the community, and growth projections indicate demand in Charlotte County will outpace existing water supply by 2007. Mr. Schlobohm advised projects being pursued are the Burnt Store Plant expansion, Peace River Facility expansion, Sarasota water take back (2MGD) that was negotiated during the water supply agreements, Babcock Ranch, Regional interconnects with Punta Gorda, Cape Coral and Lee County, Countywide groundwater/RO treatment, and surface water sources. Mr. Schlobohm indicated most are in the feasibility study, but the Burnt Store Plant expansion is in a design/construction phase, and Peace River Facility expansion is in a design phase. Mr. Schlobohm stated the Burnt Store Plant is being expanded as much as possible to

get the maximum out of the current facility to meet the pressing needs, and potentially to supply water to the rest of the County. Mr. Schlobohm reported the expansion of the Peace River Facility is scheduled to be online by fall, 2008, and involves a 6 billion gallon reservoir with a yield going from 28 MGD to 32.7 MGD, of which the County would receive 3.342 MGD; and the Sarasota water take back is scheduled for fall, 2006. Mr. Schlobohm advised the County consultants reviewed work that was previously done by other consultants on the Babcock Ranch site and reported there is potentially 50 MGD available from Babcock Ranch. Mr. Schlobohm said he is not optimistic at this point about Babcock Ranch because the Southwest Florida Water Management District (SWFWMD) and South Florida Water Management District (SFWMD) advised that in order to obtain water from Babcock, not for the development that might transpire at Babcock, but for the rest of the County, an interdistrict transfer is involved and the County would be required to show that every potential water supply within Charlotte County has been exhausted. **Commissioner Cummings** pointed out SWFWMD has given three conditions to the County (1) show demand (2) show every other source has been exhausted, and (3) get SWFWMD to agree that every other source has been exhausted, which neither SWFWMD or SFWMD will ever say. **Commissioner Devos** agreed and stated not only have the three parameters been established for the County, but what is missing, and not discussed, is the need SWFWMD and SFWMD has for the water on Babcock Ranch, as well as the many others in Southeast Florida interested in that water, and expressed disappointment in the outcome of the discussions. Mr. Schlobohm indicated dialogue would be kept open with SWFWMD and SFWMD. **Commissioner Cummings** stated he understands there is a study being conducted for other potential surface and ground water sources throughout Charlotte County; that there are many other possibilities with similar hydrology in Charlotte County, all within the SWFWMD, and no interdistrict transfer issue. Mr. Schlobohm explained regional interconnects with Lee County, Cape Coral and Punta Gorda, are in the feasibility study stage with routes and alternatives being analyzed. Additional discussion ensued regarding the Punta Gorda interconnect changes. **Commissioner D'Aprile** inquired if there was a possibility SFWMD would allow the County to apply a temporary plant in Babcock in the eventuality of a water need so that it would be immediately available. Mr. Schlobohm indicated that might be possible on a temporary basis because that is the criteria that SFWMD

indicates is important and advised the potential for ground water and treatment by reverse osmosis is also being reviewed. Mr. Schlobohm explained plans are in place to meet needs and demands in 2007-2009 prior to the Peace River Plant coming on board; test wells are being put in with final feasibility report anticipated by the end of 2007 and detailed design construction start-up mid 2010; after 2009 or 2010 the County must systematically bring other sources on line for the next 20 years unless a significant amount, 10,15,20 MGD, is found; and Babcock Ranch is so appealing because of the potential to meet County needs from one source with less complexity. Mr. Schlobohm indicated surficial aquifer water on a temporary basis would be pursued, along with surface water exploration; that the fastest and best long-term solution based upon what is known right now is ground water with reverse osmosis treatment. **Commissioner Cummings** inquired if rules surrounding the acquisition on the Webb precluded it from being used as a water supply source directly on the Webb itself. Mr. Schlobohm indicated he did not know. Janette Knowlton, County Attorney, stated she did not know either but would look into it. **Commissioner Cummings** stated he is hopeful about the Punta Gorda connection and the potential of an interconnect with Cape Coral, that the 2 MGD take back from Sarasota will be the most important element, and Burnt Store being a close second. **Commissioner Cummings** inquired if brine disposal for RO is what takes permitting so long. Mr. Schlobohm explained it adds to the complexity and takes longer because in this area Department of Environmental Protection (DEP) readily approves deep injection wells. Additional conversation ensued about possible deep-well injection capacity at the landfill area. Mr. Schlobohm advised although ground water and RO treatment may be spread around the County, there is the potential for 10 or 15 MGD eventually coming out of the ground water; SWFWMD will not provide matching funds for ground water, but will not prevent the County from using it; SWFWMD will provide matching funds for surface water, making it appealing. **Commissioner Cummings** pointed out the RO well fields could be very useful in implementing a growth management plan by creating open space and preserve areas. **Chairman Moore** inquired if there had been conversations with Englewood Water District (EWD) about the purchase of potable water. Mr. Schlobohm stated the EWD is willing to work with the County but most recent discussions indicate there isn't anything to be counted on right now. **Chairman Moore** stated there is the potential for as much as 2

MGD from EWD; it would require Charlotte County Utilities (CCU) and EWD to talk to SWFWMD; is the fastest and best water in his opinion, and encouraged Mr. Schlobohm to ask EWD for a commitment on what they can do. **Chairman Moore** explained that although he does not like the answers, SWFWMD is following its rules and he does not find them to be arbitrary, but hopes the County needs and political pressure might help, and said it is necessary to keep trying. Mr. Schlobohm indicated State Statute says if there is a demand and the supply available, water shall be transferred, but SWFWMD looks at it in a different way; SWFWMD has legitimate concerns of how much water the Everglades restoration will entail; and he is conveying only what has been said, not conveying something that gives an overly optimistic look at things.

Agenda Item Y-4, Commission Office - Reappoint Bruce C. McLean to the Beaches & Shores Advisory Committee representing District III.

COMMISSIONER DEVOS MOVED TO REAPPOINT BRUCE C. MCLEAN TO THE BEACHES & SHORES ADVISORY COMMITTEE REPRESENTING DISTRICT III, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0).

VII. PUBLIC HEARING AGENDA

AA. 10:00 A.M.

Agenda Item AA-1, Budget Office - Ordinance for the annual Capital Improvements Program (CIP) for FY 2005/2006 through FY 2009/2010.

Raymond Sandrock, Budget Officer, advised the FY2005/2006 CIP is being brought back as a result of changes in Florida Statutes now requiring the CIP be enacted by Ordinance, previously adopted by Resolution; the FY2005/2006 CIP element was adopted as part of the budget at the public hearing on September 29, 2005; projects in the remaining 4 years of the CIP are consistent with the workshops held in June, subsequent conversations, and final public hearings; and the five-year CIP from FY2005/2006 through FY2009/2010 total \$721,280,000.00. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS (4:0). COMMISSIONER**

CUMMINGS MOVED APPROVAL TO ENACT ORDINANCE #2006-001, SECONDED BY COMMISSIONER D'APRILE. Commissioner Cummings pointed out the CIP is largely consistent with the Comprehensive Plan Policy to first fund projects that benefit infill areas, then fund projects that benefit suburban areas, and thereafter fund projects that benefit rural service areas. **Commissioner Cummings** suggested as the upcoming year moves forward a formal process be established to make the CIP more deliberative explicit of that decision making process where funding is in the order of priority according to the County Comprehensive Plan, which is good growth management and helps assure those who paid the taxes get the benefit back from it. **Commissioner Cummings** stated the Comprehensive Plan indicated that by 1998 an established tiered impact fee structure would be established, which has not been done. **CALL ON THE MOTION: DECLARED UNANIMOUS (4:0).**

XI. BOARD WORKSHOP

BB. 10:00 A.M.

Agenda Item BB-1, Budget Office - Impact Fee Workshop

Chairman Moore announced Agenda Item BB-1 is opened, and continued to 1:00 P.M. Janette S. Knowlton, County Attorney, advised the reason for the continuance is that the impact fee consultant, Dr. Nicholas, is not available until 1:00 P.M., and in order for everyone to hear the results of his study, there is a need for continuance. **Commissioner Devos** inquired if there would be citizen input at this time. **Chairman Moore** said he believes it would be disadvantageous because the public has not heard the report. **Commissioner Cummings** said he has no objections to public input now and later. **Chairman Moore** advised there would be only one opportunity for persons to speak, whether now or later, and asked for a show of hands for those who cannot return. There were none.

CC. County Administrator

Kelly Shoemaker, Assistant County Administrator, requested Mr. Hebert give an update on the FEMA mobile park. Robert Hebert, Recovery Director, advised there were 366 occupied units, down from 571, and that approximately 200 units were removed from the site or brought to the staging area where FEMA will deploy them

to other areas. Mr. Hebert reported the Charlotte County Medical Society staffed a medical clinic on site with volunteer physicians; the medical clinic was closed several months ago because no patients were coming in; and that site will be used for some of the faith-based groups and groups working through United Way with the Governor's Hurricane Relief Fund in order to have direct access to help facilitate the process of finding housing for the remaining residents. Mr. Hebert explained FEMA will close the main entrance and use the eastern entrance, and the remaining mobile homes on the site will be moved to the south and east to enable the County to do site preparations on the Public Safety Complex and jail expansion to avoid delay on that project. Mr. Hebert stated FEMA agreed to an extension beyond the February 13, 2006 date, but not certain if it will be a 30-day extension, 30-days at a time, or a full 6 months, which is the maximum to be allowed; and further discussion is being had with FEMA to determine during the period of extension and when the park closes what access there will be to the mobile homes for the remaining families not housed. Mr. Hebert reported there has been agreement between FEMA and the Budget Officer to begin the closeout reconciliation for the Charley storm at the end of this month or the first of February 2006; there were disagreements on payment, most will be paid, and those that are not will be appealed; and progress is being made for the exit of FEMA and its services from the County.

DD. County Attorney

Janette S. Knowlton, County Attorney, reported there is a million dollar billing dispute for past services rendered on the Sarasota 2MGD take back contract; the County has until Friday, January 13, 2006 to choose an Arbitrator to resolve the issue, and from that date 90 days in which to complete the Arbitration; but the issue may have been resolved on the staff level in advance of the Arbitration; and she hopes to bring something to the Board on January 24, 2006, or at the February 2006 meeting. Attorney Knowlton indicated the Notice of Intent to Re-permit was received on the Altman tract regarding the phosphate issue, and gave an update of matters that had transpired to the current time; advised **Commissioner DeBoer** was in Tallahassee in an effort to open settlement discussion again with Mosaic representatives; and the Board will be updated when **Commissioner DeBoer** returns. Attorney Knowlton advised **Commissioner DeBoer**

was also testifying to the Select Committee in Tallahassee on private property rights; that the goal is to protect what's happened with Murdock Village so that changes made in the Eminent Domain Law do not impact what has thus far been done on the project, and saves the Community Redevelopment Act so it is still a useful tool in the future.

EE. Commissioner Comments

Commissioner Cummings expressed concern with the current Babcock Ranch proposal; is hopeful the phosphate issue can be settled, but not by allowing reservoirs to be built. **Commissioner Devos** had no comments. **Commissioner D'Aprile** explained about an issue regarding multiple sales of a parcel of property that took place over a 48-hour period, causing the Federal Aviation to put pressure on the Airport Authority to alter the agreed upon sale price to another parcel of property in the same area to Publix. **Commissioner D'Aprile** stated there should be a meeting as soon as possible with the Federal Aviation, Airport Authority, County Commissioners and County Attorneys to discuss and rectify the situation. **Commissioner Moore** reported Agenda Item C-4 was the appointment of Mr. Robert L. Stout as the District #4 representative on the Board of Zoning Appeals stating the appointment was for a three year term; there was a typographical error, and the term is four years. **Commissioner Moore** advised he attended a very informative demonstration at the Venice High School in late December 2005 on how to attack red tide, and opined the impact on our community could be substantial if something is not found to combat red tide. **Commissioner Moore** explained he was in Tallahassee January 4, 2006, that the DEP supported the permitting of Stump Pass for dredging, and that the experiment with GEO tubes to slow down the sand moving on the beach at Stump Pass, which shows good success already, will be completed.

X. CITIZEN INPUT - ANY SUBJECT

Aleshia Macomber gave a handout to the Board member and indicated there has been communication to several County officials regarding exemption of agricultural lands in Mid County Storm Utility MSBU, stated nothing has been done, requested the Board adopt a new Resolution, and doesn't want to pay her taxes until the matter is resolved. **Commissioner Devos**

explained the Board could not adopt an Ordinance right now. Janette S. Knowlton, County Attorney, advised she did not know the status right now but was aware of the request, and asked that Ms. Macomber contact her office for a status report, but does not know that it would be retroactive. **Chairman Moore** requested the matter be taken care of in the next thirty days. Thomas J. Haas, Jr. joined Ms. Macomber at the podium to speak of the same issue and indicated others were in attendance at the meeting with the same concerns. Attorney Knowlton requested they each contact her office. Brian Duffy indicated *Aqui Esta* is an extremely busy street, there are no sidewalks, the funding is now gone, and the County must find funds somewhere to complete the project. Dick Loftus indicated the County should look at energy conservation and the multi-story buildings being built within the County.

RECESS 11:20 A.M. - 1:00 P.M.

(Assistant County Attorney Roger Baltz replaced Assistant County Attorney Kelly Shoemaker for the remainder of the meeting. Commissioner DeBoer and Commissioner Devos were absent for the remainder of the meeting. Chief Deputy Board Services Tommy Q. White was absent for this portion of the meeting.)

XI. BOARD WORKSHOP(cont'd.)

BB. 1:00 P.M.(continued from 10:00 A.M.)

Agenda Item BB-1, Budget Office - Impact Fee Workshop

Raymond Sandrock, Budget Director, explained funding shortfalls came to light during CIP and revenue workshops held during last year's budget process; during the process the Board directed staff to look at initiating an impact fee study for a possible revision to the impact fees, which have not been updated in the last 12 years. Mr. Sandrock indicated staff went forward with the study and presents today a draft form, with the ability to make changes. Mr. Sandrock introduced Dr. James Nicholas, Professor at University of Florida in the programs of Urban and Regional Planning and the School of Law, and advised Dr. Nicholas helped introduce impact fees into the State of Florida, is considered an expert witness in national lecture on impact fees, a key participant in the Governor's Impact Fee Task Force,

and has performed over 100 impact fee studies in cities and counties across the United States, including many in Florida. **Commissioner Moore** explained Public Input would follow the presentation.

Dr. James Nicholas advised impact fees have been in Florida for 30 years with the first adoption in 1976 by Broward County; in 1976 the basic acknowledgment of the authority of Florida local government to charge an impact fee was received, based upon the Dunedin case, in which the Florida Supreme Court ruled it was reasonable to shift to new users costs borne on their behalf; costs being shifted to new users cannot exceed a prorata share of reasonably anticipated cost of expansion, so it is a cost re-coupment exercise, and if the parameters of a cost re-coupment exercise is stayed within, these then become legal impact fees, distinct from impermissible taxes which are prohibitive. Dr. Nicholas stated it is the methodology that demonstrates that whatever charged does not exceed the prorata share of reasonable anticipated cost of expansion, and is what the report does. Dr. Nicholas said Charlotte County has had impact fees for approximately 20 years, but has not kept up to date, and has fallen far behind what the impact fee can do. Dr. Nicholas reviewed the contents of the study provided to the Board. **Commissioner Cummings** requested confirmation that based upon the study, median household price from 1994 through today appears to have gone from \$70,000.00 to \$230,000.00, which is approximately a 250% increase, and had the impact fees been indexed to the cost that was being charged for the homes being built the impact fee would have changed in line with the price of new homes and match Dr. Nicholas' recommendation, but implemented gradually over time. Dr. Nicholas agreed. Ron Talone, of the consulting firm David Plumber and Associates, on behalf of the Bonita Bay Group, spoke in support of the adoption of the proposed fees at 100% of the recommended rates without application of any arbitrary discount because that would create a deficit that would have to be made up through some other revenue source. Mr. Talone stated the Bonita Bay Group also supports school impact fees and encourages adoption of those fees as well. Jon Bednerik, Executive Officer for the Charlotte/DeSoto Building Industry Association, stated he has been on the job for 4 days and there has not been much time to review the study; would like to form a task force or broad-based group from the business and realtor communities and others who might be involved, including

those with affordable housing interest and tax payer groups and come back to the Board with response. Mr. Bednerik pointed out the absence of a large number of homebuilders at this meeting is not indicative of a lack of interest or concern; that the membership has been requested to focus their efforts through the Association to work with the elected officials and staff in a reasonable time, rather than react impulsively to the considerable increase. Mr. Bednerik expressed concern of the impact on the entire County and its citizens, and wants to be certain all involved have the opportunity to come forward with responses, suggestions and recommendations, and suggested there be some phasing in because this is rather sudden after 12 years. **(Chief Deputy Board Services Tommy Q. White was present for this portion of the meeting.)** Ron Thomas, Charlotte County Habitat for Humanity Executive Director, stated he was pleased that the presentation referred to how other communities address impact fees for the affordable housing community; believes that Habitat families and others who occupy affordable housing ownership properties have a responsibility to pay impact fees; there is no way to address the needs of affordable housing without assistance; recommends a tiered system based upon square footage, and that the County talk to organizations like Habitat for Humanity to come up with some type system that would address the needs of affordable housing for new construction. George Fowler, representing Roberts Homes, and on behalf of many other builders associated with him who were unable to attend the meeting, agreed there is a need for increase, but to increase all at one time would impact construction in the area and be detrimental to many families, and stated a phase-in is imperative. **COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS (3:0).** **Commissioner Cummings** inquired if any statistical correlation between the rate of growth in a community and the level of impact fees that were charged has been observed. Dr. Nicholas stated there is a study by the Brookings Institute available online; that providing roads, police and fire protection encourages growth; congestion turns off growth, especially business growth and among retirees; and growth has not stopped even in the areas with high impact fees. **Commissioner Cummings** pointed out the last time impact fees were increased in Charlotte County they were doubled in one step, and based upon the rate of growth, it did not change the number of houses built. **Commissioner Cummings** indicated there are a lot of

homes being knocked down and a like home rebuilt, and expressed concern of an impact fee being charged in such an instance. Dr. Nicholas advised no impact fee would be charged because homes destroyed by hurricane, or even knocked down by choice and replaced with a like home, would have no net impact and no net impact fee. Dr. Nicholas explained some jurisdictions favor the size-based fee because a straight dwelling unit for dwelling unit has no fee, but if based upon square footage, someone who buys an older 1500 sq ft home and replaces it with a 4000 sq ft home would pay a fee for the difference in size. **Commissioner Cummings** said growth generates expenses for the community and must be charged for in impact fees or another revenue source established; that the County Comprehensive Plan said by 1998 tiered impact fees would be established, and it is time to implement the Comprehensive Plan. **Commissioner Cummings** suggested developing as a planning tool a Capital Improvements Program based upon population, not year, but continue having the regular Capital Improvements Program to get permitting done and have a plan from one year to the next; stated additional work needs to be done to make impact fees work for affordable housing and create an interim answer; and a need to review the school impact fee issue. **Commissioner Cummings** indicated there needs to be a provision for builders who already have a signed contract and commitments made prior to the impact fee change. Dr. Nicholas stated the Board could instruct the County Attorney to prepare an amendment to the Ordinance that would provide an exemption to anyone who produces a contract that was signed before whatever date is specified to pay the existing fees instead of the new fees to provide a fail-safe for a reasonable period of time for the extraordinary. **Commissioner D'Aprile** said there is a definite need for an increase in impact fees; the only way to keep up with the tremendous rate of growth is to raise impact fees to a standard that meets the needs of the County; impact fees should be determined by size of home; and a tiered system is fair. **Chairman Moore** stated the impact fees hit new people coming in but does not tend to hurt the community that is here which, in this county, tends to be retired, fixed income people; two public hearings are needed, and he suggested the first to be at the February 14, 2006 meeting; and advised his understanding is the schools are having their own impact study done. **Chairman Moore** inquired if a home destroyed in a hurricane being rebuilt to approximately the same size, but required to build on stilts because of FEMA rules, would be

excused. Dr. Nicolas replied affirmatively, and stated that most re-builds occur quickly, but not always; consideration should be given as to how long a building can have been torn down and still be considered an existing structure; 5 years is reasonable and could be incorporated into the Ordinance by stating if a building is replaced within 5 years it is exempt, but over 5 years not exempt. **Chairman Moore** asked if other counties had tiered impact fees. Dr. Nicholas stated tiering is not such a common practice in Florida as outside Florida. **Chairman Moore** asked for Board opinion on the first of two hearings being February 14, 2006. **Commissioner D'Aprile** said a month needs to be taken to evaluate what was said and allow each Commissioner to determine their concerns, and February would be a good time. **Commissioner Cummings** concurred, but does not want to put too much of a deadline on staff, and the goal should be based upon legal ability; does not believe the County is prepared to move quickly on the tiered impact fee structure yet, but hopes to proceed as quickly as possible; and believes it is important to have a sliding scale.

MEETING ADJOURNED 2:29 P.M.

Thomas G. Moore
Chairman

ATTEST:

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

By: _____
Deputy Clerk

/gm