

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**FEBRUARY 14, 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, Matthew D. DeBoer and Sara J. Devos. Also in attendance were County Administrator Bruce D. Loucks, County Attorney Janette S. Knowlton, Chief Deputy Board Services Tommy Q. White, Executive Assistants to the Board Diane Gant and Bonnie Blair, and Deputy Clerk Karen S. Mitchell. The meeting was called to order at **9:01 A.M.**

The **invocation** was given by Pastor Peter Burnett, Port Charlotte International Church, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

**CHANGES TO THE AGENDA**

**ADDITIONS:**

**Proclamations** Attorney's Office - Hazardous Weather Awareness Week

**Regular  
Agenda**

Agenda Item Y-3, Attorney's Office - Adopt a resolution authorizing expenditures of funds for private counsel to represent individual members of the Board of County Commissioners and members of the Manasota and Sandpiper Key Advisory Committee with regard to allegations of violations of the provisions of the "Sunshine Law"

**COMMISSIONER DeBOER MOVED APPROVAL OF THE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS.**

I. SPECIAL RECOGNITION

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 18, 2006 AS "KIA TIGERS KOREAN PROFESSIONAL BASEBALL DAY" ON MOTION BY COMMISSIONER DeBOER, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Raymond Lee accepted the proclamation and presented the Board with a poster size photograph of the Kia Tigers.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY, 2006 AS "KATHY ROBERTS, ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH" ON MOTION BY COMMISSIONER DeBOER, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. Kathy Roberts accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING FEBRUARY 13, 2006 THROUGH FEBRUARY 17, 2006 AS "HAZARDOUS WEATHER AWARENESS WEEK" ON MOTION BY COMMISSIONER DeBOER, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. Wayne Sallade, Emergency Management Director, accepted the proclamation.

Employee Recognition:

Bruce D. Loucks, County Administrator, and **Commissioner D'Aprile** recognized the following employees for their service with the County: **Five Years** - Albert "Gene" Laun, Environmental & Extension Services; Cuyler Lee, Facilities Construction & Maintenance; Robert Lyle, Public Works; Michael Sims, Public Works; Mark Ulchinsky, Public Works; Nicholas Velvett, Environmental & Extension Services; **Fifteen Years** - Ronal Rosiere, Public Works; and **Thirty Years** - Carl Miller, Public Works.

Special Employee Recognition:

Human Resources Director Magali Kain and Mr. Loucks recognized the following employees for Manager/Supervisor Certificate Awards:

**Level I**

Alicia Accardi	Utilities
Carol Bala	Facilities Construction & Maintenance
Pam Bird	Parks, Recreation & Cultural Resources
Larry Burns	Utilities
Denise Caruthers	Utilities
Marie D'Sa	Administration
Ed Earnest	Utilities
Paulette Hazy	Utilities
Brenda Jones	Utilities
Cheryl Kovitch	Utilities
Mark Machukas	Utilities
Sue McKean	Utilities
April Santos	Environmental & Extension Services
Ceres Staniszewski	Attorney's Office
Bonnie Stoner	Commission Office

**Level II**

JoAnn Crombie	Human Services-Transit
Linda Johnson	Parks, Recreation & Cultural Resources
Janet McCloud	Parks, Recreation & Cultural Resources
Deana Southwell	Budget-MSBU

**Levels I and II**

Ian Dack	Public Works
Lynda Freas	Utilities
Brad Walter	Real Estate Services
Inga Williams	Community Development

**Level III**

Louis Agarrat	Utilities
Dennis Decker	Utilities
Jim Drake	Utilities
Tim Free	Public Works
Diane Gant	Commission Office
Steve Kipfinger	Utilities
Russ Laughlin	Parks, Recreation & Cultural Resources
Denise McGehee	Environmental & Extension Services
Bill Montgomery	Parks, Recreation & Cultural Resources
Sherry Montgomery	Communications & Marketing
Donna Neiswinger	Community Development
Jim Pontbriand	Environmental & Extension Services
Charles Rine	Utilities



Beach Club Owner's Association to represent the Association  
and two (2) members At Large

**IV. REPORTS RECEIVED AND FILED**

None.

**V. CONSENT AGENDA**

**COMMISSIONER DeBOER MOVED APPROVAL OF THE FOLLOWING ITEMS, SECONDED BY COMMISSIONER DEVOS.** Commissioner DeBoer referred to Agenda Items G-1 for Villa Milano, G-2 for Sawgrass Pointe, and G-5 for River Club, noted they were approving developments with lots that used to be called substandard, he didn't think they had the green space required of bigger developments and he wished they had something they can uniformly apply across-the-board. Commissioner D'Aprile agreed. Commissioner Devos said she agreed, she knew Sawgrass Pointe was in demand and it puts the Board in a quandary when they look at the rest of the County in how they deal with what they consider to be substandard lots. **CALL ON THE MOTION: 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 04/05

Memorandum #1A Status of Contingency Reserves - FY 05/06

Memorandum #2 Total Disbursements for the period January 18, 2006 through February 7, 2006 in the amount of \$23,461,737.22

**B. Minutes Division**

Agenda Item B-1, Approval of Minutes

9:00 A.M., September 9, 2005	Joint Meeting - BCC and City of Punta Gorda
9:00 A.M., September 13, 2005	Regular BCC Meeting
12:30 P.M., September 13, 2005	Executive Session - Mission Unity vs. Charlotte County

3:00 P.M., September 13, 2005	Peace River Master Water Supply Contract & Interlocal Agreement W/S
5:01 P.M., September 15, 2005	Budget Public Hearing
9:00 A.M., September 20, 2005	Land Use Public Hearings
9:00 A.M., September 27, 2005	Regular BCC Meeting
2:30 P.M., September 29, 2005	Special Meeting - Water Supply Contracts
5:01 P.M., September 29, 2005	Final Budget public Hearing
9:00 A.M., October 11, 2005	Regular BCC Meeting
9:00 A.M., October 18, 2005	Land Use Public Hearings
3:00 P.M., October 18, 2005	Utilities Uniform Extension Policy and Developer's Agreement Workshop
3:00 P.M., October 21, 2005	Emergency meeting - Hurricane Wilma
9:00 A.M., October 25, 2005	Regular BCC Meeting
9:00 A.M., November 8, 2005	Regular BCC Meeting
9:00 A.M., November 15, 2005	Land Use Public Hearings

**BOARD OF COUNTY COMMISSIONERS**

**C. Commission Office**

Agenda Item C-1

**Reappoint** David C. Burnett as the Plumbing Contractor and Gregg Brown as the Electrical Contractor to the Construction Board of Adjustments and Appeals (CBAA).

**D. Administration**

No items.

**E. County Attorney**

Agenda Item E-1

**Contract No. 2006000177** between Charlotte County and Ruden, McClosky, Smith, Schuster & Russell, P.A., for legal services involving eminent domain.

Agenda Item E-2

**Settlement** in the lawsuit captioned Olympia LLC v. Charlotte County; Case No. 06-176-CA.

**F. Budget Office**

Agenda Item F-1

**FY07 Budget Workshops and Public Hearings** for the Board of County Commissioners as follows:

<u>Meeting Purpose</u>	<u>Date</u>	<u>Location</u>	<u>Time</u>
MSBU Budget W/S - Review MSBUs with rate increases	05/03/06	Room 119	2:00 P.M. - 3:30 P.M.
Preliminary Budget Update	05/31/06	Room 119	1:30 P.M. - 3:30 P.M.
CIP Workshop	06/07/06	Room 119	1:30 P.M. - 4:30 P.M.
Presentation of Tentative Budget (set tentative millage rates)	07/12/06 and 07/13/06 (if needed)	Room 119	1:30 P.M. - 4:00 P.M.
Public Hearings MSBUs - (rate increases above maximum rate)	07/12/06	Room 119	5:01 P.M.
Public Hearings MSBUs - (rate increases above maximum rate)	07/13/06	Lemon Bay HS	5:01 P.M.
First Public Hearing	09/14/06	Room 119	5:01 P.M.
Final Public Hearing	09/28/06	Room 119	5:01 P.M.

Agenda Item F-2

**Grant #2006-010** to Florida Department of Law Enforcement (FDLE) for the Sheriff's Office to obtain a grant to upgrade and

further standardize fingerprint technology, and **authorize** the Chairman to execute the necessary grant documents.

Agenda Item F-3

**Set a Public Hearing for Tuesday, February 28, 2006 at 2:00 P.M.** for the Board of County Commissioners to consider an ordinance updating impact fees for new construction in Charlotte County.

**G. Community Development - Building Construction Services**

Agenda Item G-1

**Agreement #2006-003** for a Developer's Agreement with Milano, Inc. for Phases 1 and 2 of Villa Milano, Final Plat FP-04-02-02; and Surety in the form of a Letter of Credit #200413 issued by LandMark Bank in the Amount of \$2,088,000.

Agenda Item G-2

**Agreement #2006-004** for a Developer's Agreement with Centex Homes for Sawgrass Pointe at Riverwood, Final Plat FP-03-08-04, and Surety Bond issued by Safeco Insurance Company of America in the amount of \$3,064,895.

Agenda Item G-3

**Agreement #2006-005** for a Developer's Agreement with KB Home Fort Myers, LLC for Creekside Phase III, Final Plat FP-04-08-16, and Performance Bond in the amount of \$582,705.75 from Fidelity Deposit Company of Maryland.

Agenda Item G-4

**Cancel Public Hearing scheduled for February 22, 2006, 9:00 A.M. to 1:00 P.M.,** for the Evaluation and Appraisal Report.

Agenda Item G-5

**Agreement #2006-006** for a Developer's Agreement with D. R. Horton, Inc. for River Club, Final Plat FP-04-05-10, and accept Bond No. 20BSBDN3672 issued by Hartford Fire Insurance Company in the amount of \$6,231,267.58.

Agenda Item G-6

**Amended Final Plat**, FP-04-10-22 for Sandhill Commons, approved as Preliminary Plat under the name of "Sandhill Commons" and previously approved as Final Plat under the name of Sandhill Commercial Complex.

**H. Economic Development**

No items.

**J. Environmental & Extension Services**

No items.

**K. Facilities Construction and Maintenance**

No items.

**L. General Services**

Agenda Item L-1

**Property deletions of inventory items for the month of February, 2006.**

Agenda Item L-2

**Cancel Contract #04-003, Contractor/Builder Install, Repair and/or Maintenance and Contract #05-182, CARE Facility Expansion with Made in Rio, Inc.**

Agenda Item L-3

**Change Order #3, Contract #05-284, East Port Wastewater Reclamation Facility Sludge Dewatering to RTD Construction, Inc., Zephyrhills, FL in the amount of \$33,639.55 with a revised total contract of \$260,755.60.**

Agenda Item L-4

**File #06-179, Telemetry Upgrade Program** as a sole source purchase with Data Flow Systems, Inc., Melbourne, FL in the amount of \$252,510.

Agenda Item L-5

**Change Order #2, File #05-102, Water/Wastewater Treatment Operator Service** to increase the not-to-exceed amount by \$200,000 for a revised amount of \$600,000; and **extend** the contract term through September 30, 2006.

Agenda Item L-6

**Change Order #1, Bid 06-021, Grounds Maintenance** to JaeMax Inc., Murdock, FL in the amount of \$14,190 with a revised total of \$265,538.

**M. Human Resources**

No items.

**N. Human Services**

Agenda Item N-1

**Community Development Block Grant (CDBG) Change Order** for one (1) recipient needing additional funds due to price increase from the manufacturer after the original estimate was approved by the Board and the time the home was ordered, work exceeds the \$5,000 limit, and per the Department of Community Affairs (DCA) requirements must be approved by the Board (**Amends Grant #2004-021**).

Agenda Item N-2

**Bid and project costs** to rehabilitate five homes through the HOME Again program at a total cost of \$176,242 (**Amends Grant #2005-013**).

**P. Information Technology**

No items.

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

Agenda Item Q-1

**Upgrade** a part-time Recreation Specialist position at the Charlotte Sports Park to full-time.

**R. Public Safety**

Agenda Item R-1

**Budget Transfer #06-009 in the amount of \$110,000** to provide funding to purchase a 2,000 gallon fuel truck for Fire/EMS.

Agenda Item R-2

**Budget Transfer #06-010 in the amount of \$990,000** to allocate funding to begin hiring the personnel and purchase the fire engine and equipment for new Station #15 located in the NW Charlotte area.

**S. Public Works**

No items.

**T. Real Estate Services**

Agenda Item T-1

**Resolution #2006-021** authorizing the exchange of the County's interest in Lot 4, Block 1321, Port Charlotte Subdivision, Section 13, for the interest of The Estate of Ruth M. Steneroden, Deceased, c/o Eric Steneroden, Personal Representative, in Lot 16, Block 1262, Port Charlotte Subdivision, Section 46, lying within the Tippecanoe Scrub Environmental Park II Project Area; and **authorize** the Director of The Real Estate Services Department to execute the Agreement for the exchange of real property, pursuant to Resolution No. 2003-023.

Agenda Item T-2

**Resolution #2006-022** approving the release of two (2) seven and one-half foot (7.5') wide utility and drainage easements located in Rotonda West - Oakland Hills; and the release of a portion of a ten-foot (10') wide utility and drainage easement, and a portion of a twenty-foot (20') wide canal maintenance easement, both located in Port Charlotte Subdivision, Section 37; and **authorize** the Director of The Real Estate Services Department to execute County Deeds releasing said easements or portions of said easements. Owners: Innovative Partners I, L.L.C., A Florida limited liability company, and Marjorie L. Sanderson, Trustee.

Agenda Item T-3

**Resolution #2006-023** authorizing the Chairman to approve and ratify a Resolution of Necessity for the acquisition by any legal means necessary those parcels required for the proposed Carmalita Street / Education Avenue Phase 1 project, as identified by Public Works.

**V. Tourism Development**

Agenda Item V-1

**Agreement #2006-007** with Redfish Nation, LLC, for return of the ESPN Redfish Cup Tournament Series and Festival to be held May 11-13, 2006 on the grounds of the Tentatorium. The event rights fee is \$15,000 paid by the County as a promotional fee for producing the Tournament.

**W. Utilities**

No items.

VI. REGULAR AGENDA

Y. Regular Business

Agenda Item Y-1, Commission Office - Evaluation of County Administrator

**Chairman Moore** said the consensus was Mr. Loucks was doing an excellent job and recommended a 10% increase bringing his annual salary to \$154,000. **Commissioner Devos** said she wanted to be sure the increase was competitive with surrounding counties. **Chairman Moore** said that was taken into consideration. **COMMISSIONER DEVOS MOVED APPROVAL FOR TO INCREASE MR. LOUCKS' ANNUAL SALARY BY 10% TO \$154,000, SECONDED BY COMMISSIONER D'APRILE. CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONER CUMMINGS, D'APRILE AND DEVOS VOTED "YES" AND COMMISSIONER DeBOER VOTED "NO." MOTION CARRIED: (4:1).** **Commissioner DeBoer** clarified he evaluated the County Administrator above satisfactory, he's seen no other evaluations, he has nothing in his packet, he has no information regarding wages of other Administrators, he can't vote in favor of things he doesn't have in front of him, and he apologized to Mr. Loucks but reiterated his 'no' voted was due to a lack of supporting information. **Chairman Moore** said the Commissioner's point was duly made, he should have done something before the vote was taken and requested the increase be made retroactive back to Mr. Loucks' contract renewal date of December 10, 2005. **COMMISSIONER DEVOS MOVED APPROVAL THAT MR. LOUCKS' INCREASE IS RETROACTIVE TO THE DATE OF HIS CONTRACT (AMENDS AGREEMENT #2002-095), SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item Y-2, Attorney's Office - Set an Executive Session for February 14, 2006 at 3:00 P.M. or as soon thereafter as may be heard, in the Administration Conference Room to discuss pending litigation against Mosaic and phosphate settlement strategy

Janette S. Knowlton, County Attorney, explained this was a request to set an Executive Session for this afternoon at 3:00 P.M. to follow the Board's 2:00 P.M. phosphate workshop. **COMMISSIONER DeBOER MOVED APPROVAL, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Agenda Item Y-3, Attorney's Office - Adopt a resolution authorizing the expenditures of funds for private counsel to represent individual members of the Board of County Commissioners and members of the Manasota and Sandpiper Key Advisory Committee with regard to allegations of violations of the provisions of the "Sunshine Law" as set forth in the lawsuit captioned Page V. LLC and Smith Cove vs. Charlotte County; Case No. 05-1528-CA

Janette S. Knowlton, County Attorney, explained this item requests adoption of a resolution authorizing the expenditure of funds for members of the Board of County Commissioners and Manasota and Sandpiper Key Advisory Committee (MASKAC) members to retain outside counsel if necessary on a lawsuit they have regarding the Manasota Overlay District and the adoption of those related ordinances. Attorney Knowlton clarified the lawsuit was trying to undue what's been done out on Manasota Key, the County's opinion is there isn't much of a case, the issue being pursued the strongest deals with alleged Sunshine violations, the County Attorney's Office may have a conflict of interest in representing these individuals and she recommended approval. **COMMISSIONER DeBOER MOVED APPROVAL TO ADOPT RESOLUTION #2006-024, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

**X. CITIZEN INPUT - ANY SUBJECT**

None.

**CC. County Administrator**

Bruce D. Loucks, County Administrator, thanked the Board and every employee in this organization for their support during the last year. **Commissioner Devos** said she appreciated the leadership he's shown this year as they continue the recovery from the hurricane, deal with water issues, move forward with Murdock Village, the issues with the purchase of Babcock Ranch plus all the other issues he deals with on a daily basis, and she felt he'd done an excellent job for them. **Chairman Moore** agreed the Commission said it well.

Robert Hebert, Recovery Director, updated the Board on the FEMA mobile home park. Kelly Shoemaker, Assistant County Administrator, updated the Board on legislative issues and said she would provide the Board with a packet of the various bills.

**DD. County Attorney**

Janette S. Knowlton, County Attorney, reported she'd spoken with Sheriff Davenport who wanted the Board to be advised they were using inmate labor at the fairgrounds for general maintenance and upkeep purposes, and he wanted to make sure she advised the Board that this was legally acceptable. Attorney Knowlton advised invitations had been sent to Manatee, Hardee, DeSoto, Lee and Sarasota Counties asking them to participate in a local government forum on the phosphate industry and whatever we can come up with as a unified front to hopefully put the litigation part of it behind us, we've had some response from Manatee and Sarasota Counties, and people were expressing interest even though we don't have a date yet for this.

**RECESS: 9:50 A.M. - 10:05 A.M.**

**VII. PUBLIC HEARING AGENDA**

**AA. 10:00 A.M.**

Agenda Item AA-1, Community Development - Appeal to Board for certain provisions of the Transfer of Density Units ordinance

Thomas A. Cookingham, Planning Services Manager, requested this item be pulled from the agenda.

Agenda Item AA-2, Community Development - Discussion and adoption of a resolution approving an amendment to the Victoria Estates DRI Development Order - NOPC-05-09-58 (Continued from January 17, 2006 Land Use Public Hearings)

Jason Utley, Planner II, stated Benderson Development Company is requesting to amend the Victoria Estates Development of Regional Impact (DRI) located in District I, both parcels were east of Kings Highway, Tract A was north of Rampart Boulevard and Tract B was south of Suncoast Boulevard. Mr. Utley explained the build-out date will be extended three years to May 31, 2010 and

removing 198 mobile homes from Tract A and replacing those with site-built structures. Mr. Utley advised there was a discrepancy in the annual monitoring report submitted by the applicant pertaining to traffic impact particularly on Rampart Boulevard, the applicant's methodology showed operation at a level of service B, the County's concurrency spreadsheet shows the segment of roadway between I-75 and Kings Highway is operating at a level of service D which was below the adopted level of service standard, they were in the process of working with the applicant to remedy our traffic methodologies and resolving this issue. Mr. Utley reported this project was heard by the Southwest Florida Regional Planning Council (SWFRPC) and it was recommended for approval as a non-substantial deviation; and both staff and the Planning and Zoning (P&Z) Board recommend approval of this petition as a non-substantial deviation. Michael P. Haymans, Esq. with the law firm of Farr, Farr, Emerich, Sifrit, Hackett and Carr, P.A., spoke on behalf of the applicant in support of staff's report, stated they were working well with staff in resolving the traffic issue, and it will be brought back to the Board sometime this year. **Commissioner D'Aprile** expressed concerns regarding traffic impacts in that area. Attorney Haymans stated there was nothing in this amended development order that changes their obligation to mitigate the impacts they cause, and they have committed with Wes Millard and the rest of the staff to resolve and address all issues. **Commissioner D'Aprile** asked for clarification on the 198 unit reduction. Attorney Haymans explained they were removing 198 mobile homes, the original DRI was approved for 1,700 units but this number is reduced to 1,312 with this proposed change, so the net result was actually a reduction. **Commissioner Cummings** asked if Benderson owned a strip mall in Punta Gorda. Attorney Haymans said yes, he thought it was the Cross Trail Shopping Center. **Commissioner Cummings** said he needs some faith they can do the work they say they're going to do, it's 1.5 years since Hurricane Charley but that place remains a shambles, if Benderson can't fix and properly maintain their own facilities then he saw no need to approve new work for them to do and he needs to see some improvements. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DeBOER MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ADOPT RESOLUTION #2006-025 FOR PETITION NOPC-05-09-58 SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

**VIII. PRESENTATION AGENDA**

Mr. Tom Rice, President and CEO of Fawcett Memorial Hospital will lead a discussion about the three Charlotte County hospitals becoming part of a CSA (Combined Statistical Area) while still retaining the MSA (Metropolitan Statistical Area). Mr. Rice Will also update the Commissioners on a study that the hospitals are undertaking - "A profile of uninsured Floridians."

**Chairman Moore** said he owed Mr. Rice an apology, he didn't proofread his synopsis for this item as to it's purpose, and asked Mr. Rice to start at the beginning as to why they were here today. Tom Rice, Fawcett Memorial Hospital CEO, introduced representatives from Charlotte Regional Medical Center and Peace River Regional Medical Center, said the Medicare program was very important to all of three hospitals, thanked the Board for their time, gave a brief presentation on the importance of becoming part of a CSA while still retaining their individual MSA designation as it could mean receiving an additional annual amount of \$2.7 million collectively, and summarized they were asking the Board to offer their support in writing so that their Congressional delegation may start the process in Washington. **Commissioner Devos** said \$2.7 million was very important, agreed this has absolutely no bearing on our MSA designation, and said she felt this was a very easy way for them to help support our local hospitals. **COMMISSIONER DEVOS MOVED APPROVAL TO EXPRESS THE BOARD'S SUPPORT IN WRITING AND FORWARD TO REPRESENTATIVE FOLEY, SECONDED BY COMMISSIONER D'APRILE.** **Commissioner DeBoer** said procedurally he objects to the fact that something gets put on the agenda as a presentation item with no background material and then the Board jumps up and takes action. **Commissioner DeBoer** said he didn't necessarily think this is a bad thing but he didn't know, when he was asked about this back in December our staff people told him they did not want this to happen, now all of a sudden it just gets put on the agenda as a presentation but it's an action item, that's wrong, and it's a poor way to do public business. **Commissioner Cummings** agreed with **Commissioner DeBoer**, said it's advertised as a presentation, historically that means the Board was just going to hear the information not take action on it, if folks had concerns they wouldn't have been prepared to come and address this item, it appears there's merit, he's inclined to support it but he would feel a little better if he'd had some feedback from staff beforehand and

suggested this be brought back at the next meeting as an action item. **Chairman Moore** asked if this was time sensitive. Mr. Rice said no, they'll be lucky to get this in place in time for October 2007, and the Board should take all the time needed. **COMMISSIONER DEVOS WITHDREW THE MOTION AND COMMISSIONER D'APRILE WITHDREW THE SECOND.** **Commissioner Cummings** stated Mr. Rice had briefed him on this but the public needs to be informed with the opportunity to speak to the Board on this. **Commissioner DeBoer** agreed. **COMMISSIONER DeBOER MOVED TO HEAR THE ITEM AT THEIR NEXT REGULAR MEETING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Mr. Rice said the next item didn't require any Board action, introduced Health Department Acting Administrator Steve Mitnich and Health Planning Council of Southwest Florida Vice President Susan Mitchell, and they updated the Board on the increasing problem of uninsured and underinsured in Charlotte County, and presented the Board with the Indigent/Uninsured Care Panel Report dated February 14, 2006 which included the panel's findings and recommendations.

#### IX. PUBLIC WORKSHOP AGENDA

##### BB. 10:00 A.M.

Agenda Item BB-1, Budget Office - Consider an ordinance updating Impact Fees for new construction in Charlotte County (Proof of Publication was in Order.)

Raymond Sandrock, Budget Director, explained the purpose of this item was to provide continued dialog on the impact fee study and recommended fee revisions; and Dr. Nicholas will be discussing revisions made since the prior workshop, the option of considering a fee based on square footage rather than just a standard fee, options for future indexing, recommendations when the next study should be completed, discussion on timing for the implementation of the revised impact fees, and how permits in process could be handled. Mr. Sandrock reported this item was brought to the Planning and Zoning (P&Z) Board yesterday, they found the revisions and indexing were consistent with Comprehensive Plan (Comp Plan) and suggested that in the revision of the impact fees the size of residential property calculated either by number of bedrooms or square footage be

taken into consideration regarding affordable housing aspect of the community. James C. Nicholas, Ph.D., University of Florida, stated they will distribute the final recommendation tomorrow; as it stands now there were minor reductions in the road, library, public buildings, and fire/rescue fees which resulted from the incorporation of the sales tax revenues into the calculations; and offsetting those somewhat was an increase in the recommended Park & Recreation impact fee. **Commissioner Cummings** said he understood the reductions were the result sales tax contributions and that this was based on the net after expenses and costs and that that impact fees were only allowed to address the impacts of new growth. Dr. Nicholas agreed. **Commissioner Cummings** noted the County was playing catch-up for old deficiencies with the sales tax revenues and ad valorem taxes, stated he doesn't understand how you get both sides of the coin, you get to say you can't consider past deficiencies but also say the revenues you use to make up those past deficiencies have to be subtracted to deal with new growth, and summarized that means we're never allowed to catch-up. Dr. Nicholas explained the theory in Florida was that the impact fee picks up the deficit so they can calculate the cost of serving new development but the County has decided to direct a portion of the sales taxes paid by the new development to pay off the backlog, and because of the overlap in that new development was partially paying for the backlog, that amount was being incorporated as a reduction in their impact fee. **Commissioner Cummings** summarized the full value of the sales tax was not being deducted only the portion of the sales tax these new folks would be paying. Dr. Nicholas agreed that was the result. **Chairman Moore** asked if there was concern that the sales tax has a sunset of the first quarter of 2009. Dr. Nicholas agreed there was concern because the current calculation has an implicit assumption that it's permanent, opined the Board leave everything as it is now and readdress it in 2008 after the new system had been working for two years. Dr. Nicholas reviewed his Indexing Impact Fees memorandum dated February 1, 2006; said one approach was using the Consumers' Price Index (CPI) or the Construction Cost Index (CCI) but this approach doesn't take into consideration land values; another approach was using a weighted index of two-thirds of the Construction Cost Index (CCI) and one-third land cost index as detailed in his memorandum; opined using the weighted approach the County would see impact fees keeping pace with the costs incurred; and

clarified if the land component ever levels off the County would then rely totally on the CCI. Dr. Nicholas requested Board direction on what to draft into the ordinance, i.e., the simple CCI or the CCI plus land index. Dr. Nicholas said the second item they need Board direction on is the use of size for residential dwelling units and reviewed his Size Based Impact Fees memorandum dated February 1, 2006. Dr. Nicholas stated the Planning and Zoning (P&Z) Board sits as the Local Planning Agency (LPA) and didn't take a position on which of the methods were preferred other than that they support some integration of size and therefore of affordability into the impact fee. Dr. Nicholas recommended the new impact fees be effective 90 days after adoption or about June 1<sup>st</sup>, the draft ordinance contains an exemption for any applicant for a building permit with a contract signed before the effective date of the ordinance but the permit must be issued within 30 days, and any extensions of building permits after the effective date require the payment of the new fee schedule. Dr. Nicholas reiterated Board direction was needed on the following: 1. a 30 day period in which the building permit must be issued; 2. the extension of any building permit requires the payment of the new higher impact fee; 3. size based impact fees; and 4. indexing impact fees. **Commissioner Cummings** noted the increase in the cost of the impacts of new growth corresponded with the value of new housing starts. Dr. Nicholas said yes the value of a new house increased about 240% and the impact fee calculation was now 235%. **(Discussion ensued regarding the square footage idea versus an affordable housing impact fee; data indicates the larger new home will have more people in it; and the need for a tiered structure based on infill, suburban and rural service areas.)** Alan Arena said the new fees won't affect him because he's already under contract but new residents and the working class folks will find much higher new home prices, and he felt smaller builders that only do 30 to 50 houses a year should be excluded. Ron Thomas, Habitat for Humanity, voiced support for a tiered square foot system, said they currently pay about 4.5% of the total house value of \$60,000, the proposed increase to about \$9,000 would mean 15% of the total house cost would go into impact fees, opined if there was a 3% cap organizations like Habitat can effectively build at the current cost, they serve at 50% or below of median income so \$60,000 was about all a homeowner can pay, they just don't have much room to absorb any increase and reiterated his desire for a tiered system based

on square footage as well as the 3% cap as a percentage of total house cost. **Commissioner Devos** asked for clarification on the 3% cap. Mr. Thomas said the task force looked at a 3% cap as a maximum of impact fees, right now they pay \$2,700 in impact fees, their organization and their homeowners were committed to making sure they pay what they consider to be their fair share but Habitat really needs to continue doing what they do at a maximum of \$60,000 in order to serve our population which consists of 50% or below median income in Charlotte County, and that segment of the community was continuing to grow but there are less and less opportunities. Larry Sandles, Enterprise Charlotte Impact Fee Task Force Chair, distributed a handout detailing his comments; and said they'd reviewed all of Dr. Nicholas' materials and memoranda, County budget data on impact fees collected for the past 6 years, how it's been spent, the Capital Improvements Program (CIP) budget projections, sales and gas tax revenues, specific County user fees, Regional Planning Council (RPC) on their Affordable Housing Task Force, the National Association of Realtors positions on transfer taxes, and the State Impact Fee Task Force recommendations. Mr. Sandles related the Task Force reached consensus on the following recommendations: infrastructure and service needs of the County need to be addressed; Impact fees based on square footage; six (6) month implementation; six (6) months from when the permit is picked up or notice given before it becomes ineffective; six (6) months to complete the first successful inspection; developers need to be accountable for their fair share mitigation; allow impact fees to be paid over five (5) years with no interest; a 3% cap of the construction permit value; current and accurate data to be used; accountability in reporting; and administrative fees be limited to actual costs. Mr. Sandles suggested the Board adopt a policy that balances impacts of new and existing developed properties through broad based funding, the Board continue the Impact Fee Task Force to consider other funding sources, review impact fees making proportionate adjustments as other funding sources are implemented, and consider adopting a procedure to capture revenues to fund a workforce housing policy that should underwrite government fees allowing deferral of the fees until it no longer meets the workforce housing criteria with reimbursement of the fees made to the County. Mr. Sandles said he now wanted to address the Board as a private citizen and builder, he's been a member of the Building Oversight Committee

since it's inception, and they would like to have a permit issued in 30 days because right now it takes about six to eight weeks but cautioned the Board to be careful in requiring issuance within 30 days. Suzanne Graham, Charlotte/DeSoto Building Industry Association (CDBIA) President, stated today's newspaper incorrectly stated their organization was opposed to the increase but they haven't taken a formal position, they sit on the Task Force and agree with the recommendations.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

**Commissioner Devos** made the following comments: a property transfer fee has merit, supports the one-cent sales tax extension due to infrastructure needs, wants to know impact of using a 3% cap because the CIP has a \$100 million shortfall over the next five years, supports using the CCI but without land costs because she felt that was captured in ad valorem, supports impact fees based on square footage, supports 30 days to pick up permit, supports six months for implementation, and supports 30 days for initial inspection. **Commissioner Devos** thanked everyone for their efforts and asked staff to give her their thoughts on what they feel was a fair time frame for the permit to be approved and then picked up by the applicant, and opined even 90 days might be difficult to do as an organization but she has a problem going out as far as six months. Dr. Nicholas said timing wasn't the issue as long as the permit is valid, the issue was when someone pulls the permit what fee should they pay. **Commissioner Devos** said in light of that, she supports a 90 day implementation and six months to pick up the permit, and then not even worry about the other part. **Commissioner Cummings** made the following comments: supports CCI plus land, the County has a big deficit to make up before committing revenues from the one-cent sales tax extension to pay for new growth, supports paying impact fees over five years but not with no interest - it should be based on present value, supports developers being accountable for fair share mitigation, supports impact fees based on square footage if that's the consensus of the Board, supports 90 days for implementation, and reiterated they need to get to work on the tiered structure based on infill, suburban and rural service areas as stated in their Comp Plan. **Commissioner D'Aprile** made the following comments: sees a lot of confusion with this, has a problem with the six month wait because the Building Department was overloaded now, supports 30 days to issue a permit, and supports impact fees based on square

footage. **Commissioner D'Aprile** said he'd like to have a discussion with Mr. Sandles on his comments, and he'd just like to make this as simple as possible. **Commissioner DeBoer** asked how square footage was measured. Dr. Nicholas said the recommendation is square footage that's heated and air-conditioned. **Commissioner DeBoer** said how the square foots is calculated needs to be in the ordinance along with who has the final say. **Commissioner DeBoer** noted they were mandated by the State to provide certain services to the people of Charlotte County, agreed the impact fee was a way to make growth help pay for itself, said he wants to see all of staff's recommendations in the ordinance, and he supports: CCI plus land, 90 days for implementation, and exempting those with signed contracts as of the implementation date but they must have a permit within 30 days. **Commissioner DeBoer** agreed any extension of permit requires the new fee, said staying away from square footage might be simpler, agreed with Dr. Nicholas they need to be careful using percentages because they could end up turning this from an impact fee into a tax and said they should stay away from the 3%. **Chairman Moore** made the following comments: supports CCI plus land, supports 90 day implementation, supports exempting those with signed contracts, opposes the 3%, and supports impact fees based on square footage for Board consensus. **Commissioner Devos** stated for Board consensus she would support CCI plus land. Dr. Nicholas stated he didn't detect any Board direction regarding paying impact fees over five years and commended the Board on the County's fine staff.

**X. CITIZEN INPUT - ANY SUBJECT (Continued)**

Kendall Leach, Rotonda Sands Association and Rotonda Meadows Villas Association Director and Treasurer, asked the Board to support a resolution coming to them in two weeks for the installation of the sewer lines as well as the reuse line, commented on work efforts in both areas that will make sewer installation much easier, said there were plans submitted for 35 new homes in Rotonda Sands, opined the same thing will happen in Rotonda Meadows, commented on the new housing developments coming soon to Rotonda Villas, and said water and sewer lines were already there but they need to be activated as soon as possible.

Carl Veaux said the water on Babcock Ranch was critical to the communities of Charlotte County, North Cape Coral and North Ft. Myers, and asked the Board not to change the Comp Plan on the ranch until a complete study of water quantity and quality has been completed by someone other than Johnson Engineering.

Audrey Young, Team Punta Gorda, said they were very enthusiastic of indexing based on square footage or whatever plan was used for impact fees, reported on a newspaper article about the State's plans to set up \$500 million for a fund the ordinary person could apply to to harden their individual homes or small businesses to prevent further devastation from future storms, and they will provide the Board with whatever information they obtain.

Brenda Baker said as a realtor she's asking the Board to reconsider the 3% cap, opined square footage wasn't an accurate indicator of how many people reside in a home especially where affordable housing is concerned, permitting takes too long right now, and voiced support for a six month implementation.

Charlotte Ventola agreed the size of a home doesn't equate to the number of occupants.

**RECESS: 12:05 P.M. - 2:02 P.M.**

**(Executive Assistants to the Board of County Commissioners Diane Gant and Bonnie Blair, and Chief Deputy Board Services Tommy Q. White were not present for the remainder of the meeting.)**

Bruce D. Loucks, County Administrator, announced the grand reopening of the Sheriff's Administrative Office on February 15th at 10:00 A.M. and Fire Station No. 1 on U.S. 41 on February 22<sup>nd</sup> at 10:00 A.M., and the public was invited to each of these hurricane recovery events.

IX. PUBLIC WORKSHOP AGENDA

BB. 2:00 P.M.

Agenda Item BB-2, Board Workshop - Following up to comments at the January 17, 2006 meeting, Mosaic is available and willing to answer questions on the Altman permit on February 14, 2006

Janette S. Knowlton, County Attorney, explained the Altman 1 permit was a tract in the northeast corner of Manatee County, the original permit to mine Altman was in 2000, Charlotte County challenged the issuance of that permit and prevailed on appeal with the permit being denied; regarding Altman 2, in November 2005 they received a notice of intent from Department of Environmental Protection (DEP) to grant the modified permit to Mosaic to mine the Altman Tract, the new modified mining permit was definitely an improvement but they felt it still had significant flaws, as a result of that on December 13, 2005 the Board authorized the expenditure of \$10,000 to file a limited challenge to the issuance of the modified permit on Altman, the purpose was not to defeat the permit but only to maintain the ground they made in Ona, and the two issues in the limited challenge were the recharge wells and the sand tailings. Attorney Knowlton said regarding Altman 2 they'd like Mosaic to agree, as they did in the Ona case, on the need for the recharge wells otherwise the recharge wells will be case specific to Ona only and they would like it to become the industry standard. Attorney Knowlton explained the proposal in the packet material has been distributed to DEP and Mosaic, it reflects two of the permit requirements from Altman plus the language proposed by DEP and approved in the Ona case, this language has already been agreed to by DEP and Mosaic, and that's what we're proposing as being the resolution in the Altman case. **Commissioner DeBoer** advised Mosaic has asked to give a 30 minute presentation and Mr. Cantrell was here to answer questions the Board might have but he's not here to negotiate anything. **(Board consensus.)** Gray Gordon, Vice President Public Affairs Mosaic Fertilizer LLC, stated they want to review the Board's areas of concern associated with the refilled Altman mining permit and discuss how they might go forward working with the County on future permits. Mr. Gordon explained the Altman permit covers about 2,300 acres, many improvements have been made to this permit since it was filed and challenged by Charlotte County through a

previous land owner IMC, and this refilled permit will become part of their current Four Corners mine and will not be adding any new mine processing plants nor will there be any actual fertilizer production associated with this application. Mr. Gordon said the Altman mine was allowing the removal of the phosphate mineral they use to produce fertilizer sold to their farm customers, and introduced Gary N. "Bo" Davis, Vice President in charge of all mine operations for the new Mosaic Company and all mine permitting, and Tom Myers, Assistant Vice President responsible for the actual permitting itself and the land reclamation which follows the mining. Mr. Gordon stated this group from Mosaic was here today to assure the Board they were here in earnest and to assure that whatever we agree to or discuss will be followed through by the Company. Tom Myers, P.E., Assistant Vice President Mining and Land Reclamation Mosaic Fertilizer LLC, gave a slide presentation titled Altman Tract Review that paralleled the material. Mr. Gordon said besides the Altman permit and the two issues of having availability of enough sand and financial responsibility to reclaim, Mosaic wants to establish a method to work directly with Charlotte and other counties where they operate to answer questions and concerns about any possible effects of phosphate mining on the Peace River Basin to ensure protection of the water quality and water quantity and at the same time allow them as a fertilizer company to provide our valuable product to our farmers. Mr. Gordon clarified the difference between the ditch and berm method versus recharge wells, reiterated the financial assurances on page 21 of the presentation, and said they feel the Altman permit was in good condition regarding the guarantee of reclamation. Mr. Gordon stated they were willing to remain until after the Board's Executive Session to answer any questions. **Commissioner DeBoer** thanked all the people from Mosaic and Mr. Cantrell for all their efforts to be here today. **Commissioner DeBoer** asked Mr. Cantrell to highlight the differences from the original Altman permit and this one, and then a comparison between the recharge ditches versus the recharge wells. Richard W. Cantrell, Department Division Director - Division of Water Resources Management, said the Mosaic presentation was very accurate with respect to the changes that have occurred onsite, reported Mosaic will be restoring the farthest end of Horse Creek that could still exist back to the way it was in the 1950's, this was an incredible undertaking that's very good for the environment, and there was

also the opportunity to preserve the central marsh but also have it managed. Mr. Cantrell referred to the slide 'Cross Section Through Recharge Ditch' on page 18, said it appears the department thinks the recharge ditch was adequate at least for the purposes of this mine where we have less than 50 feet of excavation, and if the recharge ditch doesn't quite fulfill the need of creating that sacrificial water supply into the surficial aquifer, what would be your suggestion. Mr. Cantrell stated his technical staff says this should be adequate for the site but we've also discussed cutting a key trench narrower down the center of the recharge ditch, backfilling that with sand tailings which are more pervious and essentially creating a linear well which would give you the recharge capability of getting water deeper into that face quicker. **Commissioner DeBoer** asked once the permit is issued if the department feels this system isn't working is there room in the permit to require that. Mr. Cantrell said he felt there is especially if it doesn't work, his experience with ditch and berm systems and their failure has more to do with the operation of the recharge ditch and berm, they have to be monitored very frequently, and Mosaic has committed to being very diligent on monitoring these ditch and berm systems. **Chairman Moore** asked the ditch dimensions. Mr. Myers said 20' to 25' at the top and 6' to 10' deep. **(Discussion ensued regarding the difference between a recharge ditch and a recharge well, clay settling areas that caused the previous spill into Peace River, protection of water resources, waste disposal at the Piney Point chemical processing plant, NPEDS discharge system, sedimentation problems, monitoring violations, recharge ditches, sand tailings, and financial responsibility.)** **Commissioner DeBoer** asked if the internal berm could be intensely lower than the external berm to encourage internal directed breaches rather than external ones. Mr. Myers said those were design features that could be accommodated as well as planned places where excess water could be shed to the internal mine recirculation system. **Commissioner DeBoer** asked if the agency finds there are problems even after the permit is issued and you are mining, would you agree to put in the key ditch as the next thing you would try on this permit. Mr. Myers said certainly. **Commissioner DeBoer** asked if the agency said you need to look at putting in the recharge wells, would you have a problem complying with that if it's based on the scientific data that's collected. Mr. Myers responded no we won't. **Commissioner DeBoer** said they need to stay with the two

issues outlined by Attorney Knowlton, sand tailings and financial responsibility. **Chairman Moore** agreed. **Commissioner DeBoer** stated he understood between the two or three bonds there was enough money available for bringing in the sand tailings and reclaiming these properties and asked if that was the feeling of the permitting agency too. Mr. Cantrell said yes, we believe they've shown with their sand budget where the deficits are and that they have a source of sand to make that up. (**Discussion ensued regarding availability of water resources, creating amenities through reclamation, availability of state tax and trust fund monies, and key ditches versus recharge wells.**) **Commissioner DeBoer** stated staff has made reasonable requests but so far those haven't been addressed by Mosaic. **Commissioner Cummings** said they were only hearing from the other side of the litigation and he wants to hear from our experts because they've told us what is needed. **Chairman Moore** said he was disappointed because he thought all of them would be able to get together but he doesn't see anyone willing to take the first step. **Commissioner DeBoer** declared, "I didn't know we'd already failed, I thought we were starting to talk and I'm really confused now. I had Mr. Gordon and Mr. Myers both say that they've no problem making the internal berm intentionally lower than the external to encourage internal directed breaches, had them both agree that they have no problem, as a condition, that as long as DEP determines it necessary, they'll go to the next step, to a key ditch, if in fact the system that they have right now is not adequate. They've also agreed that if for some reason both of those things fail that, if DEP required it, they would do the recharge wells. I think that's a heck of a big concession. I think the problem here is we have people saying that they don't trust the man who's agency oversees that, that's the only thing that I see right now as a failure. I'm still looking at the sand tailings, even though there's no language that was presented to us by our experts saying that the monetary amount was in question, it's a question of timing and how long the financial responsibility is required for. If we want to talk about that, I'm willing to talk about that but I thought we'd made significant progress on the first one." **Commissioner Devos** asked how long would it take or what were the triggers to figure out if they need to do a keyhole. Mr. Cantrell said the trigger would be if, despite correct operation of the ditch and berm system, they start seeing adverse effects on the wetland systems being preserved indicating they were draining too much

water out from underneath the ditch and berm system into the mine cuts. **Commissioner Devos** summarized that could take some time and then more time to see if a keyhole would work before finally ending up with recharge wells. Mr. Cantrell agreed but reiterated it was the advice of his technical staff that the ditch and berm system is adequate to protect the systems on site. Mr. Gordon reiterated they have continuous monitoring on those wetlands and they have put in the monitoring wells, so if a water level goes down they will see it, said there's a third thing which is to directly charge the wetland where you actually pump water directly in to the wetland, and asked his staff how long it would take to drill a recharge well. Mr. Myers said he thought the physical construction and installation of a recharge well was just a matter of days; and they would support a permit condition that says it's a tiered control process that could be defined in the permit as a process for corrective measures. Mr. Gordon addressed **Chairman Moore**, said they did come here in the spirit of cooperation, we've agreed to look at the key ditch and putting in a recharge well if needed; they have 8 million tons of sand only two miles away; they have three years of bonding plus bonds for Manatee County as well as an environmental bond; there's also the value of the land itself; and they didn't see any failure. Mr. Gordon added they have a strong commitment to the environment. **Commissioner Cummings** noted low flows was a problem especially during the dry season, and it wasn't the headwaters that dried up when the rainfall slowed down because there was water flowing upstream and downstream, it was dry only in the middle and in the same spot every year. **Commissioner Cummings** said monitoring during a wet cycle that will also exactly coincide with the build-out time frame means you won't see the symptoms from this show up until after the mining is done, we've already proven what works and what doesn't work, all we did was come forward saying we have two issues already proven in Court, here's some language that we feel would address these, include it in the permit and we'll go away. **Commissioner Cummings** summarized they've spent over \$11 million to achieve the current safeguards and he didn't plan to lose them now. Attorney Knowlton said she was curious about the step approach mentioned earlier and she understood the key ditch hadn't been done before. Mr. Cantrell said he thought another mining company does this but he didn't think they're required to do it. Attorney Knowlton said she assumed it was less expensive than doing the full recharge well system and maybe do it quicker.

Mr. Cantrell said he didn't know about the actual construction expense but it would be probably be quicker. Attorney Knowlton said she understood DEP feels the ditch and berm system for Altman was sufficient, asked if Mosaic would be willing as a point of compromise to go ahead now with the key ditch for Altman and if there's still adverse effects then Mosaic would do the recharge wells, said she assumed DEP would make the decision there's a failure but if not who and asked how do you define what the failure is. Mr. Cantrell explained the permit contains monitoring criteria, if a criteria fails then it's the mines responsibility to solve that problem, and the mining would be halted until the failure is rectified. Mr. Cantrell said as part of the settlement if Mosaic proposed to DEP that they would put in recharge wells or try the key trench approach, we won't object to it and we would be happy to put that as a permit condition but clarified DEP doesn't feel it's a condition necessary for issuance of the permit or required for protection of the environment. Mr. Gordon suggested they could try a test section to see if it helps or works. **Commissioner Devos** opined they probably can't resolve the language today, said Mosaic and Mr. Cantrell have heard the Board's concerns, she didn't think the sand tailings issue has been resolved yet, suggested staff work on the language and opined they're headed in the right direction. **Commissioner Devos** voiced support for the step approach suggestion, and opined Attorney Knowlton and Attorney Carr would be able to work together. **Commissioner D'Aprile** said he felt they would be able to find a mutually acceptable compromise, and he felt the three-year supply of sand was sufficient for at present time. **Commissioner DeBoer** said he thought the idea was to find a compromise based on the principles they were using in these two particular areas, regarding the ditch issue he felt they had found agreement, Mosaic has made a number of concessions including the last one where they would actually do a test area to find out if the key ditches were effective or not, regarding the sand tailings he heard there were adequate financial mechanisms in place to bring the sand tailings in, and he felt they were down to a point where they have the ability to resolve this issue and stop spending money on litigation. **Commissioner Cummings** said he hoped they will have their hydrologist go through and review it to see whether they think it will work since we haven't had any of that input on this idea. **Chairman Moore** said that was fine with him and asked if legal was comfortable with what the Board

wanted. Attorney Knowlton said she thought she knew what the Board wants to accomplish, asked if the Board wanted to hear from Mr. de la Parte in Executive Session regarding the key ditch, it's something that's untested but she felt they could come up with some draft language, she hadn't heard enough from Mosaic regarding the sand tailings, and the purpose of changing the six months to 30 days was the fear that if they're shut down for six months it could mean bankruptcy or some other kind of financial difficulties making it way too late for the County to recoup anything for clean-up costs. **Commissioner Devos** reiterated it was her desire for Attorney Knowlton and Attorney Carr work together and bring a draft back to the Board. **Chairman Moore** said he thought they we're basically there. **Commissioner DeBoer** said he agreed with **Commissioner Devos** in that he still didn't know what the difference is between 30 days or some other number of days, and agreed they could have Attorney Knowlton and Attorney Carr work up a draft. **Chairman Moore** asked if the Board wanted to have the Executive Session this afternoon. **Commissioner Devos** said yes. Attorney Knowlton stated tomorrow was the deadline for referral of the Altman challenge to DOA.

Attorney Knowlton announced the Board would now be recessing into the Executive Session.

**RECESS: 4:15 P.M. - 5:27 P.M.**

**(Commissioner Devos was not present for the remainder of the meeting.)**

Janette S. Knowlton, County Attorney, announced the Executive Session had concluded at 5:20 P.M. in the Administration Conference Room.

#### **IX. PUBLIC WORKSHOP AGENDA**

##### **BB. 2:00 P.M. (Continued)**

Agenda Item BB-2, Board Workshop - Following up to comments at the January 17, 2006 meeting, Mosaic is available and willing to answer questions on the Altman permit on February 14, 2006

**Commissioner DeBoer** made the following statements:

Recharge System

1. There would be an agreement to make the internal or the berm that actually abuts the cut intentionally lower than the external berm to encourage any overflows or blowouts to be directed into the cut and not outside. They didn't have a problem with that.
2. Mosaic would identify a test area for a key ditch.
3. If DEP determines it necessary, Mosaic would use the key ditch and if the key ditch for some reason doesn't work and DEP determines that to be a fact, Mosaic would be willing to install the recharge wells.
4. Mosaic would do the permitting for the recharge wells prior to the need to avoid the problematic permitting process mentioned by Mr. Cantrell.

Sand Tailings

1. Request Mosaic identify and reserve a stockpile of sand necessary for reclaiming all excavated areas.
2. If the Manatee bond is available, whether or not Mosaic could modify that bond so DEP could access the bond to move the sand tailings into the excavated areas to reclaim it. If that's not possible, consider whether Mosaic could get a separate bond to do that. If that's not possible or if it's Mosaic's choice, Mosaic would approach the Legislature to get some of those dollars back into the Reclamation Trust Fund that would be earmarked for that purpose.

**Commissioner DeBoer** stated if these items were agreeable, they would like to know if Mosaic would agree to extending the filing with DOA for the Administrative Law Judge. Mr. Gordon enumerated the items listed by **Commissioner DeBoer** and said if we agree to these things did the Board want them to write up some language Mosaic feels is workable and submit it to the County for a review. (**Board consensus.**) Mr. Gordon said the last item was the issue of tomorrow's deadline and asked for a few minutes to caucus about everything.

**VII. REGULAR AGENDA**

**EE. Commissioner Comments**

**Commissioner Cummings** commented on the following: suggested everyone read the Objections, Recommendations and Comments (ORC) Report on their recent Comp Plan amendment; resource classification request regarding a separate ranch on the northeast corner of Babcock Ranch; and impacts to roads in South County from new growth. **Commissioner D'Aprile** commented on the preservation of 74,000 acres of Babcock Ranch; and impacts to roads and infrastructure from current and future projects as well as projected new growth. **Commissioner DeBoer** commented on the following: letter from Department of Community Affairs (DCA) regarding Babcock Ranch; growth management; the need for FGCU to provide a sector plan; members of staff that are promoting their own agenda; the Events Center; the City of Punta Gorda needs to allocate TIF monies to cover the additional items the City wants; septic tanks and the Aerobic Treatment Units (ATU) requirements; and utility expansion.

**IX. PUBLIC WORKSHOP AGENDA**

**BB. 2:00 P.M. (Continued)**

Agenda Item BB-2, Board Workshop - Following up to comments at the January 17, 2006 meeting, Mosaic is available and willing to answer questions on the Altman permit on February 14, 2006

Mr. Gordon stated they feel they can meet these conditions, they appreciate the fact of working with the County to do this, they would ask the County not to oppose Mosaic applying for the permits for the wells since this would be done at the County's request, they agree to do a one week extension of time until next Wednesday on the referral of the Altman challenge, and they would ask Attorney Carr to work with Attorney Knowlton to come up with the language. Attorney Knowlton said the only problem with a one week extension is she won't have sufficient time to bring it back to the full Board as their next meeting isn't until February 28, 2006, and asked that Mosaic give the extension until she was able to bring back the proposal to the Board. Mr. Gordon asked if the County would be able to at least give Mosaic a sense of agreement by next week. Attorney

Knowlton said when Mosaic gives her the language she would be able to give them an idea of whether she felt the Board would accept it. **(Board members concurred with that approach.)** Mr. Loucks noted the Board does have a Land Use meeting scheduled for next Tuesday, February 21, 2006. Mr. Gordon asked if at that time the Board would be able to indicate that there's not a legal objection. Attorney Knowlton said she didn't have a problem with that. Mr. Gordon said that way we'd know that there's not objection legally to the language and then it's really in the hands of the Commissioners to accept what the attorneys have put together. Attorney Knowlton said that's fine. Mr. Gordon say okay and thanked everyone for their time today. **Commissioner DeBoer** extended thanks to Mr. Gordon.

**MEETING ADJOURNED: 6:21 P.M.**

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**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**

**/ksm**