

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

MARCH 28, 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 Assistant to the Board Bonnie Blair and Deputy Clerk Karen S. Mitchell. The meeting was called to order at **9:02 A.M.**

The **invocation** was given by Rabbi Jacobson, Temple Chabad, Port Charlotte, Florida, followed by the Pledge of Allegiance to the Flag.

CHANGES TO THE AGENDA

ADDITIONS:

**Regular
Business**

Agenda Item Y-3, Utilities - As a follow-up to the February 28, 2006 BCC meeting, review and direction on the Peace River/Manasota Regional Water Authority's request for consent to enter Charlotte County's jurisdiction for an extension of the regional transmission system.

Agenda Item Y-4, Public Works - Adopt a resolution accepting an amended easement from the Board of Trustees of the Internal Improvement Trust Fund for the Stump Pass Experimental Stabilization Project and authorizing the Chair to sign the attached Amendment to easement of Charlotte County.

Agenda Item Y-5, Committee Vacancies - Construction Board of Adjustments & Appeals - One

(1) member to serve as the Engineer Representative. Must be Florida registered engineer - term will expire in February 2008. Meetings are held 1st and 3rd Monday of each month in Room #119 at 8:00 A.M.

COMMISSIONER DeBOER MOVED APPROVAL OF THE ADDITIONS OF ITEMS Y-3 AND Y-4 TO THE AGENDA, SECONDED BY COMMISSIONER D'APRILE. Commissioner DeBoer explained item Y-5 wasn't meant to be an agenda item it was only provided as a notification for the Chair to read with the other Committee Vacancies. CALL ON THE MOTION: DECLARED UNANIMOUS.

CHANGES:

Consent
Agenda

Agenda Item G-1 - Community Development, Approve to set a Public Hearing on April ~~17~~ 18, 2006 at ~~10:00 A.M.~~ 9:00 A.M., or as soon thereafter ...

Agenda Item B, Minutes Division -
9:00 a.m. 12/09/~~06~~ 05 Joint Meeting with the
City of Punta Gorda

~~1:00 p.m.~~ 12:00 Noon 12/13/05 Executive Session
- Mosaic

Agenda Item C-1, Commission Office - Approve the re-appointment of Joe Karpach. The term of the District 5 Representative expires April 8, 2006. Mr. Karpach express his desire to be reappointed to the Parks & Recreation Advisory Committee, for an additional three-year term.

DELETION:

Public Hearing
Agenda

Agenda Item Z-2, Public Works - Consider an Ordinance to create the Grove City Waterway Unit

COMMISSIONER DEVOS MOVED APPROVAL OF THE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

SPECIAL RECOGNITION

Proclamations:

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING APRIL, 2006 AS "FLORIDA'S WATER CONSERVATION MONTH" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS. David G. Schlobohm, CCU Director, accepted the proclamation.

THE BOARD AGREED TO THE ISSUANCE OF A PROCLAMATION STIPULATING MARCH 28, 2006 AS "TOM BIRDSALL DAY" ON MOTION BY COMMISSIONER D'APRILE, SECONDED BY COMMISSIONER CUMMINGS AND DECLARED UNANIMOUS. Tom Birdsall accepted the proclamation.

Presentations:

None.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

None.

II. COMMITTEE VACANCIES

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

Affordable Housing Advisory Committee

- one (1) volunteer to represent the building industry for a term to expire March 8, 2007 and one (1) volunteer "Member at Large" for a term to expire March 12, 2008

Buena Vista, Grassy Point, ELF Water

- one (1) volunteer resident for a term ending September 7, 2006

Construction Board of Adjustments & Appeals

- one (1) member to serve as an alternate; must be a member of the construction industry, holding a current license for a three-year term

Deep Creek Non-Urban Street & Drainage Unit Advisory Committee

- One (1) volunteer/landowner who resides within the unit for a two-year term

Grove City Street & Drainage MSBU Committee

- three (3) volunteers needed - applicants must be landowners and a full-time residents residing within the Unit

Gulf Cove Waterway Unit

- six (6) volunteers - five (1) regular members whose terms will be pulled by lot number to serve one to three years and one(1) alternate member to serve a two-year term

Little Gasparilla Island Advisory Committee

- One (1) volunteer for the Hideaway Beach Club Owner's Association representing the Association through 1/22/2007, one (1) member of the Little Gasparilla Island POA to represent the Association, one (1) member of the Placida Beach Club Owner's Association to represent the Association and two (2) Members-At-Large

Manchester Waterway Benefit Advisory Committee

- one (1) member to serve on the committee; a resident/property owner who lives within the boundary of the Waterway Benefit Advisory Committee

Murdock Village Community Redevelopment Agency Advisory Committee

- one (1) Contractor Representative

Planning & Zoning Board Representative

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

III. REPORTS RECEIVED AND FILED

Regular Meeting Charlotte Harbor Community Redevelopment Agency
Advisory Committee, Thursday, January 26, 2006 - 10:00 A.M. and
February 23, 2006 - 10:00 A.M.

IV. CONSENT AGENDA

**COMMISSIONER DeBOER MOVED APPROVAL OF THE FOLLOWING ITEMS,
SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

CLERK OF THE CIRCUIT COURT

A. Finance Division

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

Memorandum #1 Status of Contingency Reserves - FY 04/05

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

Memorandum #2 Total Disbursements for the period March 8, 2006
through March 21, 2006 in the amount of
\$12,386,863.20

B. Minutes Division

Agenda Item B-1, Approval of Minutes

9:00 A.M.,	December 9, 2005	Joint Meeting with City of Punta Gorda
9:00 A.M.,	December 13, 2005	BCC Regular Meeting
12:00 Noon,	December 13, 2005	Executive Session - Mosaic
9:00 A.M.,	December 14, 2005	Special Meeting - Babcock Ranch TDU Appeal & Comprehensive Plan Amendment Application

BOARD OF COUNTY COMMISSIONERS

C. Commission Office

Agenda Item C-1

Reappoint Joe Karpach as the District #5 Representative on the Parks & Recreation Advisory Committee for an additional three-year term.

D. Administration

No items.

E. County Attorney

No items.

F. Budget Office

Agenda Item F-1

Application for private activity volume cap by the Charlotte County Housing Finance Authority (HFA) to provide Mortgage Credit Certificates (MCC) for first time homebuyers, and to assist low to moderate income homeowners in the repair or replacement of homes damaged by Hurricane Charley; and **Resolution #2006-045** approving the issuance by the Charlotte County HFA of its Single Family Mortgage Revenue Bonds in the aggregate amount not to exceed \$8,000,000.

Agenda Item F-2

Budget Transfer #06-015 to adjust carryover balances for various account lines for the FY2005/2006 budget; and **Budget Amendments #06-A18, #06-A19 and #06-A20** to adjust carryover balances for various account lines for the FY2005/2006 budget.

G. Community Development

Agenda Item G-1

Set a Public Hearing on Tuesday, April 18, 2006 at 9:00 A.M. or as soon thereafter as may be heard, for an appeal to the Board from certain provisions of the Transfer of Density Units Ordinance.

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

File #05-467, Work Order #30 (Contract #05-042, Engineers of Record - CCU) for **Sanitary Sewer System Design** with Boyle Engineering Corporation of Sarasota, FL in the amount of \$202,189.

Agenda Item L-2

Transfer six (6) Audio Mixers from the County to State of Florida 20th Judicial Circuit in accordance with Florida Statutes C.28.008 (part of Article V, Revision VII).

Agenda Item L-3

Change Order #4, Contract #05-284, East Port Wastewater Reclamation Facility Sludge Dewatering to RTD Construction, Inc., Zephyrhills, FL in the amount of \$9,410.91 with a revised total contract of \$313,767.22.

Agenda Item L-4

Change Order #1, Contract #05-258, Water Interconnect - Punta Gorda, Work Order #3, Phase I with Engineers of Record, DMK Associates of Englewood, FL in the amount of \$59,800 for a total contract amount of \$208,300.

M. Human Resources/Risk Management

No items.

N. Human Services

Agenda Item N-1

Resolution #2006-046 supporting the elimination of the cap on the State Housing Initiatives Partnership (SHIP) Funds beginning FY07-08 and supporting full funding of \$939.5 million from the SHIP Funds in State FY06-07.

P. Information Technology

No items.

Q. Parks, Recreation & Cultural Resources

No items.

R. Public Safety

Agenda Item R-1

Grant #2006-016 for the EMS (75%/25%) Matching Grant application in the amount of \$197,472 for the purchase of AutoPulse Systems.

Agenda Item R-2

Grant #2006-017 for the EMS (75%/25%) Matching Grant application in the amount of \$130,722 for the purchase of powered stretchers for all department transport ambulances.

S. Public Works

Agenda Item S-1

Agreement #2006-012 for the Cooperative Funding Agreement between Charlotte County and the Southwest Florida Water Management District (SWFWMD) for the Charlotte Harbor Redevelopment Area Watershed Management Plan - Phase I (L486), (SWFWMD Agreement No. 2006REV0026); **CIP Amendment #06-C13** to change funding source for CDBG Grant to Capital Project Fund balance in the amount of \$143,000 to be repaid in 2007 from anticipated Tax Incremental Revenues.

Agenda Item S-2

Set a Public Hearing on Tuesday, April 11, 2006 at 10:00 A.M. or as soon thereafter as may be heard, to consider an ordinance amending the territory of the Tropical Gulf Acres Street and Drainage MSBU.

Agenda Item S-3

Set a Public Hearing on Tuesday, April 11, 2006 at 10:00 A.M. or as soon thereafter as may be heard, to consider an ordinance amending the territory of the Suncoast Waterway Unit.

Agenda Item S-4

Set a Public Hearing on Tuesday, April 11, 2006 at 10:00 A.M. or as soon thereafter as may be heard, to consider an ordinance amending the territory of the Farabee Street and Drainage Street and Drainage MSBU.

T. Real Estate Services

Agenda Item T-1

Resolution #2006-047 authorizing the Chairman to accept a twenty foot (20') wide drainage, access and maintenance easement for the purpose of maintaining an existing drainage swale located in a certain portion of K.B. Harvey's Central Division, Section 25, Township 40 South, Range 22 East. (Owner: Pinnacle Street, L.L.C., a Florida Limited Liability Company)

Agenda Item T-2

Resolution #2006-048 releasing the following: a portion of a ten-foot (10') wide utility and drainage easement located in Lot 11, Block 2767, Port Charlotte Subdivision, Section 33; portions of two (2) twenty-foot (20') wide canal maintenance easements located in Lot 219, Block 1175, Port Charlotte Subdivision, Section 43 and Lot 179, Block 1700, Port Charlotte Subdivision, Section 54; and a portion of a six-foot (6') wide utility and drainage easement located in Lot 46, Block 526, Punta Gorda Isles, Section 20; and further authorizing the Director of Real Estate Services to execute County Deeds releasing said easements and portions of said easements. (Owners: Stephania Kott, Jason Lee and Susan K. Moore, William and Pamela J. Rutledge, and Beverly Walkman-Schoen.)

V. Tourism Development

No items.

W. Utilities

No items.

V. REGULAR AGENDA

Y. Regular Business

Agenda Item Y-1, Utilities - Review and discussion of the Peace River/Manasota Regional Water Supply Authority's proposed Amended 2005-2006 Budget. Approval by the Charlotte County Board of County Commissioners is prior to the Authority's Board Meeting on April 5, 2006 when they are scheduled to vote on the proposed and amended budget. Utility staff recommends Board approval of the Authority's proposed budget.

David G. Schlobohm, CCU Director, explained the proposed budget amendment for FY05/06 has been reviewed in detail and recommended approval. **COMMISSIONER CUMMINGS MOVED APPROVAL OF THE PEACE RIVER/MANASOTA REGIONAL WATER SUPPLY AUTHORITY'S PROPOSED AMENDED 2005-2006 FY BUDGET, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item Y-2, Utilities - Direction and approval from the Board to implement the use of the Emergency Water Usage Rates as of April 1, 2006 due to water shortage conditions

Mr. Schlobohm explained the proposed emergency water use rates were being implemented only as a precaution to encourage water conservation. **COMMISSIONER DEVOS MOVED APPROVAL TO IMPLEMENT THE USE OF THE EMERGENCY WATER USAGE RATES AS OF APRIL 1, 2006 DUE TO WATER SHORTAGE CONDITIONS, SECONDED BY COMMISSIONER CUMMINGS.** Commissioner DeBoer asked if this might penalize large families. Mr. Schlobohm said no, the average customer uses 5,000 gallons of water so 90% of the customers would not be affected at all. **Commissioner DeBoer** said he felt these rates were punitive, if the goal is to conserve more than they are right now then in an emergency situation they should just restrict all non-potable use of water, and he will vote against this once again because he didn't believe this has any appreciable effect. **Chairman Moore** disagreed and said punitive rates in other counties have made significant strides in conservation. **Commissioner D'Aprile** said this is applied to those who abuse the system rather than those who just use it normally. Mr. Schlobohm agreed, said they were putting together a major conservation effort that included looking at a lot of different and creative ways to conserve, the Water Management District is requiring them to have a strong conversation program in place as part of our permitting, and this is along those lines to show them Charlotte County is serious about conversation and conserving our water resources. **CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS D'APRILE, CUMMINGS AND DEVOS VOTED "YES" AND COMMISSIONER DeBOER VOTED "NO." MOTION CARRIED: (4:1).** Commissioner Devos opined this should be in place year-round. Mr. Schlobohm agreed and said it was in the works. **Commissioner Cummings** agreed with **Commissioner Devos** and commented on tiered rates. **Commissioner DeBoer** stated if he'd had the information on tiered rates it might have lead him to a different opinion.

Agenda Item Y-3, Utilities - As a follow-up to the February 28, 2006 BCC meeting, review and direction on the Peace River/Manasota Regional Water Authority's request for consent to enter Charlotte County's jurisdiction for an extension of the regional transmission system.

David G. Schlobohm, CCU Director, explained this item was a request from Peace River/Manasota Regional Water Supply Authority (PRMRWSA) for permission to extend a line south from DeSoto County to the Punta Gorda water treatment plant. **Commissioner Cummings** stated this was such an important item he wanted to verify his understanding of the Board's consensus was accurate before he goes to the Water Authority (WA) meeting tomorrow - if he's asked today whether or not the Board was willing to say yes to the pipeline the answer would be no because the conditions haven't been met; if they are willing to wait until we finish the ongoing staff negotiations the Board would be willing to consider the interconnect if Charlotte County has an interlocal agreement that guarantees us the right of first refusal to the water. **Chairman Moore** said he felt the County should approve the interconnect but he would add some words of a more positive nature that the County will do it with these conditions that protect the County. **Commissioner DeBoer** opined **Commissioner Cummings** stated the position very well, said based on all of the past and current situations they need to go in requiring the right of first refusal, he didn't know why Charlotte County wasn't an exclusive user of the WA and how that would secure our future water supply so that the County wasn't expending their own tax dollars looking for water when the WA and Southwest Florida Water Management District (SWFWMD) should be doing it for us. **Commissioner Cummings** replied Charlotte County has the right under the contract to exercise the same option as DeSoto County and select the WA as our exclusive provider. **Commissioner Devos** said that didn't give her a great deal of comfort, she has a lack of confidence in the WA, and she liked the language they're proposing of right of first refusal because it provides protection for Charlotte County. **Chairman Moore** opined through David Moore major changes were in the works and the WA will improve and become a trustworthy and true WA. **Commissioner Devos** said she agreed David Moore's leadership will lead to improvements but they still need the right of first refusal, and they should let **Commissioner Cummings** present our position. **Commissioner D'Aprile** agreed on the need for right of

first refusal and said he hoped **Commissioner Devos** was right but he didn't think so. **Commissioner Cummings** summarized he heard three votes for approval if the interlocal agreement contains the language for right of first refusal, and he will try to couch it in as positive terms as possible. **Commissioner Cummings** opined the WA will become what it's supposed to be, the time is right for change but the current staff leadership isn't capable of making that change, and it was this Board's will for the WA to start doing it's job. **Commissioner DeBoer** stated he believed the Commissioner should go in there with the Board's support that this agreement is the way they were going based on current conditions, opined in the future the WA should become and act as a regional WA should and read the following: "I'm interested in whether or not the staff and **Commissioner Cummings** can use this to secure, as **Commissioner Devos** said, with confidence that our future needs are provided. I just want to say that I'm flexible to that end but I believe as an exclusive user that it requires that those exclusive users, or if you want to call them the exclusive provider, that to have that status you must commit all your resources to the system. Part of the key in this, to give the confidence you're talking about, is that any water that is generated within the geographical boundaries of an exclusive user county always has a right of priority to be used within that county even to the detriment of allocations to users that are not exclusive. So if in fact Charlotte County has, as they're talking about in their 2025 plan Shell Creek is one of those things, that if in fact that, and we do this pipeline, that in Charlotte County geographically, we produce an excess of water over what we're using and we're an exclusive user, that even to the detriment of Sarasota County, if we need that water it's ours." (**Discussion ensued regarding relationships with the WA staff.**) **Commissioner Cummings** stated overall he is willing to support the interlocal agreement as long as it includes the language - with the right of first refusal. (**Board consensus.**) **Commissioner DeBoer** replied **Commissioner Cummings** has two critical things happening right now that give him all the leverage in the world if he's willing to use them - one is this agreement and as the Commissioner said if he goes ahead with this and go into the regional concept on some of our interconnects, they become eligible as part of the loop system for funding, so there's a big financial benefit to us; and two is something the Commissioner disagrees with but nevertheless can be used to his

advantage, and that's Babcock. **Commissioner DeBoer** added he felt the Commissioner has more leverage than he's ever had and with the flexibility to do something more than just say 'this interconnect with this is all we're going to talk about' he felt the Commissioner can provide the leadership to get it done. **COMMISSIONER DEVOS MOVED APPROVAL OF AN AGREEMENT AS LONG AS IT HAS THE LANGUAGE FOR RIGHT OF FIRST REFUSAL, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.**

RECESS: 10:25 A.M. - 10:31 A.M.

(County Attorney Janette S. Knowlton was not present for this portion of the meeting.)

VI. PUBLIC HEARING AGENDA

Z. 10:00 A.M. (Proofs of Publication were in Order.)

Agenda Item Z-1, Public Works - Consider an Ordinance amending the territory of the Charlotte Ranchettes Street and Drainage MSBU to add properties that were not included in the Ordinance that have not previously been assessed and certain other properties which benefit from the assessment but are not currently included in the description of the territory of the Unit in the Charlotte County Code Section 4-6-682

Dawn Harrison, Municipal Services District Representative, explained this concerns adding territory to the Ranchettes for properties that utilize the Ranchettes but have not previously been assessed and certain other properties that benefit from the assessment. **THERE BEING NO ONE WISHING TO SPEAK FOR OR AGAINST, COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS. COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-021, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Agenda Item Z-3, Public Works - Consider an Ordinance to create the South Bridge Waterway Unit

Ms. Harrison explained this concerns creating a new waterway district at the request of the citizens in that area and she had a signed petition from those residents. **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. COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-022, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.

(County Attorney Janette S. Knowlton was present for the remainder of the meeting.)

Agenda Item Z-4, Public Works - Consider an Ordinance to create the Edgewater North Waterway Unit

Tara Musselman, Municipal Services District Representative, explained this concerns creating a new waterway district for those properties north of Edgewater Drive that were removed from the Buena Vista Grassy Pointe/ELF Waterway MSBU. Thomas R. Vick said he resides north of Edgewater Drive, he supported creating the new MSBU but he did not support splitting the cost of maintenance work at the mouth of Sunrise and Elkam Channels, asked the Board and the County Attorney to carefully review that language, and suggested the committee size should be seven or more made up of volunteers with no limit on the term. Barry Snider stated he resides north of Edgewater Drive, the issue was the disparity between those living north of Edgewater versus south of Edgewater, commented on the fact that the monies collected must be used only in that MSBU, and said he was against this ordinance. Keith Waltz disagreed with Mr. Vick, said he felt they should share some of the responsibility of keeping open the canals he uses to get out to the harbor, they need to have an organization that represents the majority of the people in this area and many agree the maintenance is needed. Eugene Busson stated he resides north of Edgewater, he agreed with Messrs. Vick and Snider that they shouldn't be paying equally, and agreed this wasn't being done correctly. Lucius Anthony stated he lived north of Edgewater Drive on the Sunrise Waterway, there are some very definite problems on Sunrise Waterway were caused by Public Works during the installations of the new storm sewers, additionally silt comes off County properties that don't have seawalls, opined the County needs to take over all the drainage, agreed on the need for an organization, on the need to spend money, and on the need to share the cost. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARE UNANIMOUS.** **Commissioner D'Aprile** asked if these two channels ever get

filled with silt making it difficult for even the smaller boats to get out because if that's the case then he has a problem with the way this is stated. Thomas A. Cookingham, Planning Services Manager, explained silt isn't the only issue, there were also health concerns from leaking septic tanks and this was staff's recommendation for shared costs for those residents north of Edgewater. **Commissioner D'Aprile** asked the cost to the individual. Ms. Musselman replied the estimate to dredge the channel equates to \$20.12 per unit for five years for those north of Edgewater and those south of Edgewater have decided to retain their budget of \$200 per unit per year. **Commissioner DeBoer** said it's hard to proportionately apply the cost to those north versus south of Edgewater Drive, and this is the least expensive way to do it even though it's not perfect. **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-023, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

Agenda Item Z-5, Public Works - Consider an Ordinance to amend the name of the Buena Vista Grassy Point Edgewater-Lister Free Court Waterway MSBU and amend the territory of the MSBU by deleting certain properties (The amended name of the MSBU will be Buena Vista Area Waterway Unit)

Ms. Musselman explained this will amend the Buena Vista Grassy Pointe/ELF Waterway MSBU by removing the district the Board just created with the previous action and amend the name of the unit. **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. COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-024, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.**

Agenda Item Z-6, Public Works - Approve an Ordinance amending the purpose of the Englewood East Street and Drainage Unit to permit funds derived from the Unit to be used for beautification and landscaping of the rights-of-way within the boundaries of the Unit; and provide improved legal descriptions of the territory.

Ms. Harrison explained this will amend the ordinance to permit assessment funds to be used for beautification. **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. COMMISSIONER DEVOS MOVED APPROVAL TO ENACT ORDINANCE #2006-025, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.

V. REGULAR AGENDA

Y. Regular Business (Continued)

Agenda Item Y-4, Public Works - Adopt a resolution accepting an amended easement from the Board of Trustees of the Internal Improvement Trust Fund for the Stump Pass Experimental Stabilization Project and authorizing the Chair to sign the attached Amendment to easement of Charlotte County.

Joanne Vernon, Stormwater Manager, explained the proposed resolution was for acceptance of an amended easement for the construction of the Stump Pass Experimental Stabilization Project. **COMMISSIONER DeBOER MOVED APPROVAL TO ADOPT RESOLUTION #2006-049, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

VII. PRESENTATION AGENDA

No items.

VIII. PUBLIC WORKSHOP

No items.

IX. CITIZEN INPUT - ANY SUBJECT

Cindy Bear, Babcock Preservation Partnership member, read the prepared statement she distributed that cautioned the Board to carefully review everything because the proposal was incomplete.

AA. County Administrator

No items.

BB. County Attorney

No items.

CC. Commissioner Comments

Commissioner D'Aprile commented on the letter he received from the Hearing Impaired Persons (HIP) requesting financial assistance to correct drainage problems caused by a mistake made by the County, and asked the County Administrator to provide him with additional information and guidance on this matter. **Commissioner DeBoer** said his research on this has gone a little further, he's not sure they created the problem because he'd heard from staff that HIP's engineer created the problem, reported that same engineering company is reportedly involved with numerous other problems throughout the County, and although HIP is a wonderful organization he felt the County shouldn't be paying money to them if it's going to go to somebody who didn't fulfill their professional obligations. **Commissioner DeBoer** commented on low water pressure and supply problems in El Jobean that is also hampering the fire suppression systems of the condo buildings where he's living, said the Fire Chief told him there wasn't enough water pressure in the fire hydrants necessary to fight fires out there, and he felt the Board needs to have a discussion on funding so this can be resolved quickly. **Commissioner DeBoer** reported the City of Punta Gorda is taking oversight on County construction within the City limits, we are going to find more costs imposed on us like that of the \$84,121 fire suppression system the City required the County put in the Tentatorium, and opined this should be part of negotiating. **Commissioner DeBoer** commented on the letter he received from Attorney Berntsson about Charleston K and the higher than anticipated construction costs wherein they will be looking to the County for more money. **Commissioner Devos** said they should go ahead and set the hearing, noted it might be a loan not a grant so they need the appropriate information from staff, and they all know how important affordable housing is, so it's important to get a time certain date before costs go up again. **Chairman Moore** summarized staff was to research where they're changing from a \$750,000 grant to \$1.25 million loan including terms and interest, and this should be brought back to the Board at their next meeting. Bruce D. Loucks, County Administrator, replied they will bring this back as quickly as possible. **Commissioner DeBoer** commented on the following: homeless men using public properties for drinking and the need for an open container law to enable police enforcement; possibility of \$4 million to 4.5 million available in the Governor's budget for a

hurricane "pet friendly" shelter for our area; and eminent domain. **Commissioner Cummings** commented on a new car wash coming to the Charlotte Harbor CRA area and opined they need to be careful with the permitting conditions they grant. **Chairman Moore** said he would like the Board's concurrence to ask staff to explore the purchase of 64.55 acres on Buck Creek in West County known as the Dunwoody property which should be preserved, and there were 120 density units that should be stripped off and placed in the County's reserve. **Commissioner DeBoer** said he would be interested to have staff bring something back including a funding source. **Commissioner D'Aprile** asked the cost. **Chairman Moore** said roughly \$6.4 million and noted this is a Planned Development (PD) which would be a mess if ever got developed. **Commissioner Cummings** replied he was interested in pursuing it further and suggested the following revenue source: take the difference between what the State is paying for the land they're buying and the appraised value for the land - which he recalled was about a \$40 million difference, and subtract that from the value of the TDUs - preferably based on the County's asking price, and have the State agree to accept that amount as credit toward local matches for future land acquisition programs. **Commissioner Cummings** said if the State is saying they need us to make this happen, and they need us to add value, then the State should be willing to recognize that value and allow it to be used as local match contributions for future land acquisitions, i.e., we should have a credit bank with the State for the difference between what our contribution would be for that acquisition and the value of those TDUs, which he thought that difference should be, by the most conservative estimate, well over \$100 million. **Commissioner Devos** replied she liked that idea. **(Board consensus for staff to explore the purchase of the Dunwoody property.)** **Chairman Moore** said he would like to have the issue of supporting the Edison nursing program for another three years placed on the next Board meeting on April 11, 2006 because there was still a nursing shortage and the program has been very successful so far. **Commissioner Devos** asked the County's contribution. **Chairman Moore** replied \$30,000 a year. **Commissioner Devos** voiced support. **Chairman Moore** commented on multiple advertising flags at places like car and boat dealers, and said he would like staff to review this and bring it back in the future. **Commissioner DeBoer** stated he didn't mind looking at parts of the sign ordinance dealing with pendant type flags, and regarding Edison he thought the idea was

to provide seed money until they had the student population in place and then the State would start fully funding the program. **Commissioner Devos** recalled the same thing.

RECESS: 11:35 A.M. - 2:00 P.M.

VI. PUBLIC HEARING AGENDA (Continued)

Z. 2:00 P.M. (Proof of Publication was in Order.)

Agenda Item Z-7, Community Development - Petition Z-05-05-36-TDU Greg Eagle Trustee (Quasi-Judicial) Reconsideration

Jie Shao, Planner II, explained this was a reconsideration for a rezoning from Agricultural Estates (AE) to Planned Development (PD), the site was located on Burnt Store Road, the Future Land Use Map (FLUM) designation was Low Density Residential (LDR) inside the Urban Service Area (USA) and Preservation outside the USA, the applicant proposes a mixed residential development on the site, and staff recommends approval with the condition that the maximum building height is 60' instead of the requested 75'. **Chairman Moore** apologized for not realizing this was a quasi-judicial proceeding. **(Deputy Clerk Karen S. Mitchell administered the oath to prospective witnesses and staff.) (Chairman Moore polled the Board for Ex-Parte Disclosures and Commissioner Devos said she would file the appropriate form.)** Geri L. Waksler, Esq. with the law firm of Moore and Waksler, P.A., spoke on behalf of the applicant, explained this rezoning of a 94.72 acre parcel follows Board approval of a large scale plan amendment that placed 35.5 acres into Preservation while bringing the remaining acres into the USA at LDR, the PD will consist of 296 units clustered outside both the Environmentally Sensitive (ES) wetland area and the AE zoned upland Preservation area, the Development Review Committee (DRC) had no objections to the proposed site plan but did not recommend approval because the DRC felt they had no ability to approve the six-story over parking 75' height, the Planning and Zoning (P&Z) Board recommended approval of the PD but didn't recommend the approval of the requested six-story over parking 75' height, and the planning staff has recommended approval but not of the requested building height. Attorney Waksler stated the six-story over parking 75' height request is limited to the two multi-family buildings located on far western portion of the site plan, and

these two buildings were adjacent to Tern Bay which is approved for buildings that are seven-stories over parking making the proposed site compatible with adjacent sites. Todd Rebol, Banks Engineering, reviewed the exhibits comparing the visual impact of a 60' building and a 75' building and detailed the revisions made since the last hearing. Attorney Waksler requested approval of the PD rezoning with the revisions but with six-story over parking 75' height. Debra Highsmith stated she resided in Pirate Harbor which was adjacent to the site; today's site plan was better but it's not good enough, this site was intimately tied to Babcock Ranch; it's the single place where a wildlife corridor connects Lake Okeechobee to Charlotte Harbor; the wildlife management lands east of Burnt Store Road to Lake Okeechobee comprise 189,132 acres including Babcock Ranch; and it all funnels down to the 13 acre easement that's 150' wide by 3,800' long, and the canal that's adjacent to it. Ms. Highsmith said the Burnt Store Plan has a management plan which clearly lays out a six step checklist for a wildlife corridor management plan, and the ordinance should be overhauled until that plan is in place. Ms. Highsmith asked what's wrong with five-stories over parking since there were Pirate Harbor lots within 350' of these buildings, and opined bringing density units into a Coastal High Hazard (CHH) zone may be legal but it certainly isn't practical. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DeBOER AND DECLARED UNANIMOUS.** **Commissioner DeBoer** recalled he and **Commissioner Cummings** said they would consider 75' if that meant the parking would go under the buildings and create more of a buffer along the conservation easement. Attorney Waksler commented on the revisions made since the previous meeting. **Commissioner DeBoer** replied the two plans in front of them now both show 75' but the approval was only for 60' and he's trying to compare the 60' plan to the 75' plan to decide if he would want to give approval for 75'. Attorney Waksler apologized, tried to explain what changes would be required to limit building height to 60', said her understanding of Board direction was they wanted to see what they could do to create additional space at the 75', they reworked the plan to retain the 75' tall buildings and create additional green space adjacent to the corridor, and added that the Board had never seen a 60' plan because the original plan was for 75'. **Commissioner DeBoer** said not having the plan they originally approved makes it difficult for him to determine what's being gained by the revisions. **Commissioner Cummings**

said his understanding was this was a conceptual drawing so they weren't actually approving the site plan at this stage. Ms. Shao replied the Board already approved the original concept plan on February 21, 2006. **Commissioner Cummings** summarized even though the two tall buildings show parking in front of them the issue is it's assuming parking underneath the buildings, also if the Board doesn't approve 75' there will have to be more parking where the stormwater was currently shown. Ms. Shao agreed. **Commissioner Cummings** said his recollection of the discussion was that as much of the stormwater as possible was going to be shifted over toward the wildlife corridor not just some of that additional green space, it was supposed to run the full length of the corridor, the Board was willing to consider an additional 15' in exchange for widening that entire corridor along the entire length by at least another 80' maybe even doubling the width of that conservation easement, Ms. Highsmith made good points of why the Board needs to think hard about approving this at all if they're going to be consistent with the Burnt Store sector plan, and reiterated the corridor needs to be widened beyond the 150' easement. Attorney Waksler stated another 50' could be added to the corridor by shifting the two buildings but Mr. Rebol doesn't feel they'd be able to gain more than 50' because of the separation that has to be maintained between the buildings. **Commissioner Cummings** said his other concern was that it still seems like there's a lot of green space and stormwater space that could be routed under the road and shifted to the southern side of the site. Mr. Rebol replied he needs to do some true drainage calculations to ensure they meet the Southwest Florida Water Management District (SWFWMD) criteria, and he felt uncomfortable saying on the record that yes it can be done but he will make that effort, he can't make any guarantees. **Commissioner Cummings** said he understood there were engineering standards that had to be met, and he hoped they would be able to make some realistic substantive improvements to the wildlife corridor. Attorney Waksler asked the Board to continue this to allow them time to refine the site plan with the assumption of a 75' height, and they will also produce a 60' plan for comparison. **Commissioner D'Aprile** said he wants to see protection of the wildlife corridor and the applicant was willing to make refinements to the site plan. Attorney Waksler said yes. **Commissioner D'Aprile** said he was okay with that. **Commissioner Devos** said Lake 3 already lost $\frac{1}{2}$ acre to accommodate increasing the easement and asked what will happen

if the buffer is widened another 50'. Mr. Rebol replied the buildings would need to be pulled to the east which will open the area to the west of the buildings. **Commissioner Devos** said the reason she didn't have issue with the 75' height was because of the distance from Burnt Store Road so if that changes she could have a concern. Mr. Rebol said the northern most tall building has a current setback from the property line of 60', the only required buffer was the 25' PD buffer, and if the Board was okay with having a setback to the north side which is adjacent to Tern Bay he could pick up 35' along with some additional tweaking to get the additional 15'. **Commissioner Devos** replied then she didn't have a problem with continuing this if that's what the other Board members desire. Attorney Waksler clarified there were two different proposals, one was to bring back a 60' site plan for comparison, and they can also continue to bring back the revised site plan showing the buildings pulled up so the Board can see the 50' or the Board can approve it and place a condition that would require at a minimum that 50' so that when they came for final they had to achieve that one way or another. **Commissioner Devos** asked that the Board be provided with information on the critter crossing. Attorney Waksler replied yes they can get that. **Commissioner Cummings** stated if the consensus is to continue this yet again he wants the Board to understand he's not guaranteeing his commitment to the height variation in exchange for 50'. Attorney Waksler said she understood. **Commissioner Devos** voiced concern about the need to make the six step process mentioned by Ms. Highsmith a condition. Attorney Waksler replied the wildlife corridor is all public lands so she didn't believe there's any individual owner or owners. Thomas A. Cookingham, Planning Services Manager, clarified regarding the Burnt Store plan part of the implementation mechanism would be to develop those standards and any PD must comply to the plan when it's developed. **Commissioner Devos** said what concerned her was the comment that this wasn't part of the sector plan. Mr. Cookingham replied staff knew this was coming even though it was ahead of the Burnt Store area plan and they had always anticipated this would be part of that plan. Attorney Waksler said they've tried to accommodate some of the goals of the Burnt Store plan but they need some indication as to what those corridor standards were. Mr. Cookingham replied there was the anticipation of that wildlife corridor following the flow-way because it seemed reasonable at the time to combine both of

those to achieve multiple goals with one action, and though he didn't have an answer he felt they would work with the development team to come up with a reasonable compromise on how this would work. Attorney Waksler said they could work with that, pointed out this entire property was offered to the State and to Charlotte County but neither took advantage of that, they were trying to work within the constraints of the development code to address the needs of the wildlife corridor, they will continue to work to try and bring that 100' all the way across up to the land but they need the height, and requested this be continued to a date and time certain so they don't need to readvertise. Bruce D. Loucks, County Administrator, advised April 18, 2006 was the next land use meeting. Attorney Waksler said that would be fine. **Commissioner DeBoer** said it appears there are two Commissioners that don't want to exceed 60', one Commissioner that asked for the reconsideration and has no problem with 75', and two Commissioners that don't have a problem with 75' if more land is added to the buffer. **Commissioner Devos** said she too wanted the additional buffer. **Commissioner DeBoer** said maybe they could avoid having another hearing by approving this but changing condition f. to read as follows: The maximum building height is 60 feet from the base flood elevation unless the developer proposes a plan that adds 100 feet of buffer to the conservation easement in which case the height will be adjusted to 75 feet from base flood elevation. **Commissioner Cummings** added that the buffer would extend the full length. Attorney Waksler replied correct, understood. **COMMISSIONER DeBOER MOVED APPROVAL TO ENACT ORDINANCE #2006-026, PETITION Z-05-05-36-TDU, CHANGING CONDITION 'F' TO READ AS STATED, SECONDED BY COMMISSIONER DEVOS.** **Commissioner DeBoer** clarified to make sure they get the process right, for the record my motion is: "To move approval of an ordinance approving an amendment to the Charlotte County Zoning Atlas from Agricultural Estate (AE) to Planned Development (PD) for property located at 15351 or 15401 Burnt Store Road in the Punta Gorda area, containing 94.72+ more or less, Petition Z-05-05-36-TDU, applicant Gregory W. Eagle, Trustee; providing an effective date, with the change that was noted earlier to Item f, allowing that the maximum building height is 60 feet from the base flood elevation unless the developer proposes a plan that adds 100 foot of buffer to the conservation easement for its entire length in which case the height will be adjusted to 75 feet from base flood elevation." Attorney Waksler pointed out

that in order to achieve that goal they may need to go to a 25 foot set-back on that northern boundary, and requested the motion indicate that would be acceptable in order to achieve the 100 foot. Commissioner DeBoer replied 'so noted.' **CALL ON THE MOTION: COMMISSIONERS CUMMINGS, D'APRILE, DeBOER AND DEVOS VOTED "YES" AND CHAIRMAN MOORE VOTED "NO." MOTION CARRIED: (4:1).**

MEETING ADJOURNED: 3:00 P.M.

Signature on file in Commission Minutes
Thomas G. Moore
Chairman

ATTEST:

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

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

/ksm