

BOARD OF COUNTY COMMISSIONERS LAND USE HEARING

NOVEMBER 21, 2006

A regular meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Moore, Commissioner D'Aprile, Commissioner Cummings, Commissioner Duffy, and Commissioner Loftus. Also in attendance were County Administrator Loucks, County Attorney Knowlton, Executive Assistant Dillon, and Deputy Clerk Manley. The following members were absent: None. The meeting was called to order at **9:00 AM**, followed by the Pledge of Allegiance. (**Proof of Publication was in order.**)

I. SWEARING IN CEREMONY FOR NEW COUNTY COMMISSIONERS BY COUNTY COURT JUDGE WAYNE WOODARD

County Court Judge Wayne Woodard administered the oath of office to District 4 **Commissioner Richard Loftus** and District 2 **Commissioner Adam Cummings**.

II. CITIZEN INPUT - AGENDA ITEMS ONLY - None

III. CONSENT AGENDA

Board of County Commissioners

Commission Office

A. **RECOMMENDED ACTION:** Approval of Surety Bond for Commissioner Loftus in the amount of \$2,000, with an expiration of November 20, 2010.

COMMISSIONER CUMMINGS MOVED TO APPROVE SURETY BOND FOR COMMISSIONER LOFTUS IN THE AMOUNT OF \$2,000, WITH AN EXPIRATION OF NOVEMBER 20, 2010, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

(Assistant County Attorney Browne replaced County Attorney Knowlton for the remainder of the meeting.)

IV. PLANNING AND ZONING AGENDA

1. Z-06-08-54 Quasi-Judicial Commission District II An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family-2 (RSF2), Residential Multi-family-10 (RMF10), Residential Single-family-3.5 (RSF3.5), and Agricultural Estates (AE) to Planned Development (PD), for property located south of Harborside Boulevard, north of Lee County Line, and east of Burnt Store Road; containing 80.15± acres, in the Punta Gorda area; Commission District II; Petition No. Z-06-08-54; applicant: Home Dynamics Corporation.

(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. Commissioner Cummings advised he received an email and had a conversation with a gentleman he could not recall the name of, and stated he would furnish the appropriate paperwork; Commissioner Duffy, reported she had a meeting with Attorney Michael Haymans; Commissioner D'Aprile stated he had telephone calls and a conversation in his office with the attorneys involved in this case, and had the ex parte disclosure forms to provide the Clerk; Commissioner Loftus reported he had a conversation with Attorney Haymans and received an email, and would submit the appropriate paperwork; and Chairman Moore advised he received an email and had a meeting with Attorney Haymans, and has submitted the appropriate paperwork.)

Jie Shao reported Home Dynamics Corporation requests a rezoning from Residential Single-family-2 (RSF2), Residential Multi-family-10 (RMF-10), Agriculture Estates (AE) and Residential Single-family-3.5 (RSF3.5) for vacant land located south of Harborside Boulevard, north of the Lee County Line, and east of Burnt Store Road in the Punta Gorda area to Planned Development (PD); that the subject site is located within the Burnt Store Road corridor, and the purpose of the petition is to allow a town house style of single-family residential development; that Community Development Department and Planning and Zoning Board

recommend approval of PD rezoning petition Z-06-08-54, with conditions "a" through "u".

Attorney Robert Lincoln spoke on behalf of applicant in favor of the petition, and advised that Todd Rebol of Banks Engineering, and Ian Vincent, an ecologist with the Dexter, Bender firm, are available for questions.

Attorney Michael Haymans representing the Homeowner Associations of Harbor Woods and Burnt Store Village that bound the subject property indicated that in addition to himself, many of the property owners and an expert land planner would speak concerning this agenda item, and requested leniency on time.

Commissioner D'Aprile indicated it is appropriate to get all the information possible on this matter, and suggested extra time be allowed to Attorney Haymans and his expert. **Commissioners Cummings, Duffy and Loftus, and Chairman Moore** agreed, with a 10-minute limitation.

Attorney Haymans, on behalf of Harbor Woods and Burnt Store Village Homeowner Associations, spoke in opposition of the petition as the plan presently exists, and indicated a new plan could be submitted that may be acceptable.

Brian Licktorman, President of Vision Planning and Design, a Sarasota planning firm, presented his professional planning opinion to the Board on behalf of the Harbor Woods and Burnt Store Village Homeowner Associations. Attorney Haymans provided photographs to the Board.

Robert H. Wilson of Woodland Estates spoke in opposition of the petition, expressed concern that wetlands have not been properly addressed, and that wildlife is being affected considerably.

Bob Mercier of Burnt Store Village advised that Burnt Store Lakes is not represented by Attorney Haymans, but is also concerned with this petition, and spoke in opposition of the petition.

Tim Gorsline of Burnt Store Village spoke in opposition of the petition.

A.M. Stepak spoke in opposition of the petition.

Nancy Femrite spoke in opposition of the petition.

Joseph T. Dlugosa, PhD, spoke in opposition of the petition.

Freeman W. Sorrell spoke in opposition of the petition.

Michael Mannella spoke in opposition of the petition.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.
Motion Carried 5:0.**

Ian Vincent addressed the wetland and wildlife issue concerns.

Todd Rebol addressed the drainage issue concerns.

Attorney Lincoln addressed compatibility and clustering issues, advised there is room for compromise, and pointed out that the development would help pay for the improvements of Burnt Store Road.

Commissioner Duffy commented on closeness of the property being a concern to the abutting homeowners. Attorney Lincoln explained the easements, buffers, and the property lines. **Commissioner Duffy** reviewed slides where the closeness impacts the neighborhood and inquired if the road could be moved further south and the buildings moved. Attorney Lincoln said that it is very tight where the building alignments would work with the wetlands and that street design would be an issue, but he would look at moving the road south about 5'. Mr. Rebol said that it could be accommodated in some manner.

Commissioner D'Aprile is satisfied with the drainage issue, but the wetlands concern him. Attorney Lincoln commented on the portion of the road that impacts wetlands.

Attorney Lincoln advised that Southwest Florida Water Management District (SWFWMD) would not make a final statement until the

permit is issued, but the wetland areas have been staked and preliminary jurisdictional boundaries identified, and accepted by SWFWMD.

Commissioner D'Aprile agrees with the complex, but has a problem with the 16 units in the front, and suggested there be a compromise to the closeness of the abutting homes with 2 units per lot instead of 4 units per lot.

Commissioner D'Aprile commented on a traffic study. Attorney Lincoln advised the two accesses would be through Harborside and Dorado, which are local streets that meet current county standards. Mr. Rebol presented **Commissioner D'Aprile** copies of the County Ordinances on street standards.

Attorney Lincoln pointed out this development may be part of the MSTU or MSBU that would help maintain the streets, or that the Board could make it so.

Attorney Lincoln indicated there were possible solutions for compromise, but that the project could not be re-designed at the podium

Commissioner D'Aprile expressed concern with the 16 units in front, and indicated it would not be accepted well by the community.

Attorney Lincoln advised that conditions a-u have been accepted. Ms. Shao commented on buffering that is acceptable, and additional buffering that can be done.

Chairman Moore stated he cannot support the petition because of its compatibility.

Commissioner Cummings explained requirements and guidelines that the Board must follow in making a determination on this project.

Commissioner Cummings said additional buffering could be required. Attorney Lincoln indicated the possibly vegetation buffering (type B) could be placed in the area being questioned. Ms. Shao explained the type A and type B buffering.

Commissioner Cummings stated the proposal meets the requirement of the law, and suggested the following conditions as part of the DRC process: relocation of the two buildings to maximize the setback from the northern boundary in conjunction with the other PD conditions, maintain a type B buffer along the entire developed northern boundary, and incorporate the development into the MSBU area that serves adjoining communities. **Commissioner Cummings** recommended the applicant work with DRC to move the structures as far to the south as the setbacks and angles of the road, etc. allow and still protect the wetlands.

Commissioner Loftus clarified that the building height could have been 60' and that applicant reduced the building height to 38'. Attorney Lincoln replied affirmatively. **Commissioners Loftus** and **Duffy** agreed with the conditions that **Commissioner Cummings** suggested. Attorney Lincoln indicated the applicant agrees to the conditions.

COMMISSIONER CUMMINGS MOVED TO APPROVE AMENDING EXHIBIT B OF THE ORDINANCE TO ADD THE FOLLOWING CONDITIONS: DEVELOPER AGREES TO RELOCATE TWO OF THE NORTHERNMOST BUILDINGS ON THE NORTHWEST CORNER OF THE DEVELOPMENT, MAXIMIZE THE SETBACK FROM THE NORTHERN-DEVELOPED BOUNDARY, WHILE MAINTAINING THE INTEGRITY OF THE OTHER PD CONDITIONS, MAINTAIN A TYPE B BUFFER ALONG THE NORTHERN-DEVELOPED BOUNDARY, AND BE INCORPORATED INTO THE MUNICIPAL SERVICE AREA WHICH SERVES THE ADJOINING NEIGHBORHOODS, SECONDED BY COMMISSIONER LOFTUS.

Commissioner D'Aprile clarified that the condition is for removal of the two buildings at the north side of the road, or 8 units. **Commissioner Cummings** stated the condition is for removal of two of the four buildings in the northwest corner. Attorney Lincoln explained that developer would move 8 units of the density away from that area to somewhere else on the project. **Commissioner Cummings** stated he considers a friendly amendment that reference is to 8 units.

Motion Carried 5:0.

RECESS: 10:55 AM - 11:05 AM

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2006-096,
SECONDED BY COMMISSIONER D'APRILE.**

Motion Carried 5:0.

2. 01-EX-07 Quasi-Judicial Commission District I Jay Rock Mine is requesting preliminary and final approval of a Group III excavation permit, #01-EX-07. The project is located on the north side of Cook-Brown Road, west of SR 31 and in Sections 23 and 24, Township 42 South, Range 23 East. The site contains 325.9 +/- acres and is zoned AG for Group III Excavation.

(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. Commissioner Cummings had none. Commissioners Duffy, D'Aprile, and Loftus have had communication with Attorney Michael Haymans.

James Dossett reported that Jay Rock Mine requests preliminary and final approval of a Group III Excavation Permit, # 01-EX-07, for a project located on the north side of Cook-Brown Road, west of SR 31, in Sections 23 and 24, Township 42 South, Range 23 East, for a ten year period; that staff recommends hours of operation from 7:00 AM to 6:00 PM, Monday through Friday, and 7:00 AM to noon on Saturday, allowing temporary rock crushing pursuant to the most recent mining/excavation ordinance, and with the following stipulations: (a) Appropriate signage noting "Trucks Entering Highway" shall be maintained. (b) Any stormwater discharge from the site shall be limited to pre-construction rates. (c) Applicant shall ensure compliance with all County, State, and Federal regulations, and any additional newly-adopted excavation regulations. (d) Applicant agrees to cooperatively work with the County and any other mining operations along Cook-Brown Road in the future to develop a long-term maintenance plan for Cook-Brown Road. Mr. Dossett stated that information on this application has changed from day-to-day, and some information being offered today is different than what has been discussed with the Board of County Commissioners (Board) in the past. Mr. Dossett explained that information was received this morning from Public Works advising that a number and an agreement has been met concerning the impact on the county road system based upon the fact that Jay

Rock and another mining operation on Cook-Brown Road have improved the road and agreed to continue doing so, and are looking at placing a bond in excess of \$300,000 to cover maintenance of the road. Mr. Dossett advised three of the four conditions have been met, that the fourth issue has to do with State and Federal permits, that there was significant disagreement over the amount of wetlands, and that a Corps of Engineer permit has not been received stating Jay Rock has met the Corps of Engineer requirements. Mr. Dossset said staff recommends approval with the four conditions, three of which have already been met, and requested that the permit not be issued from his office until documentation is received from the Corps that the wetlands issue has been satisfied.

Attorney Michael Haymans spoke on behalf of applicant, advised he has been working with the County Engineer, Dan Quick, and that the recommendation of approval has never been from their office that no permit be issued; that as a matter of compromise and set forth in the Developer's Agreement, Jay Rock will not operate within the wetland areas that are delineated on the graphics. Attorney Haymans said Jay Rock has all state and regional permits, but the question is if the Federal government has jurisdiction over those wetlands because they are isolated. Attorney Haymans stated that excavation would be in two phases, that Phase I is only uplands, and no Federal permit required because operation is only in the uplands areas until such time as a letter is received from the Army Corps of Engineers which determines that there are no Federal jurisdiction wetlands on the property, or until the developer delivers an Army Corps of Engineers permit for activity in wetlands on the property, at which time Phase II would allow the applicant to move into the rest of the excavation process. Attorney Haymans stated this was his understanding with Mr. Quick and Mr. Dossett's office, that a no issuance of a permit provision was not listed as a condition, that he thought there was a recommendation of approval, that the applicant is willing to accept the conditions stated in the agenda item, but as long as no operation is being done in the wetlands a permit should be granted for excavation.

Mr. Dossett explained that on July 18, 2006, the Board gave the applicant 90 days to get their package together, which is over 120 days ago, and that changes to the document that Attorney

Haymans references were still being received as of last Friday. Mr. Dossett stated that working outside the wetlands must be considered because excavation cannot be done next to a wetlands and not impact the hydric system (ground water table), and that excavation done 30 feet down at the edge of wetlands would impact the wetlands. Mr. Dossett stated that this issue has been going on for some period of time; that a stop-work order was issued on the site last December; and in addition to the application itself, a key point was getting a Corps permit, which applicant still does not have. Mr. Dossett indicated that if the applicant's hydraulic engineer or environmental expert could show the offset from the debated wetlands for staff to review, they would be willing to work with, and base a permit on that, but otherwise the ordinance states if you have wetlands on site, a wetlands permit is needed, and staff cannot issue a blanket statement allowing applicant to excavate on the uplands, and that there is insufficient information.

Attorney Haymans indicated applicant was ready on October 17, 2006, but staff failed to advertise the hearing, that the Developer's Agreement was submitted to Charlotte County in the fall of 2004, that he brought to the attention of the County Attorney's office the need to review the Development Agreement as part of this process, that he initiated the discussions and submitted an adequate Developer's Agreement long ago, and worked with staff to update the agreement on language issues for identification. Attorney Haymans stated that based upon his conversations with Dan Quick, he understood Mr. Quick had made the recommendation for approval, and there was no indication they would recommend no permit be issued.

Attorney Haymans asked that he be given some time to work with staff and bring this back today.

Commissioner D'Aprile indicated there seems to be miscommunication between Mr. Haymans and staff, that he thought this was resolved before it got to this meeting, and asked Mr. Dossett if it was necessary to have the federal upland excavation permit, or federal jurisdiction letter before a permit is issued. Mr. Dossett advised it is necessary if there is impact to wetlands, but that applicant could have a hydrologist demonstrate there would be no impact to wetlands if they stay so many feet away from the delineated wetlands, which

would satisfy the conditions right now, and a permit could be issued. Mr. Haymans stated it is 50 feet. **Commissioner D'Aprile** questioned why Attorney Haymans had not been notified of the conditions that had just been described.

Mr. Dossett said this matter was scheduled to be heard by the Board in early October, but the proper public notice did not take place, and that in early October Attorney Haymans received a copy of the goldenrod which reflected four conditions, one of which was assurance of compliance with County, State and Federal regulations.

Commissioner D'Aprile explained that according to Attorney Haymans the State and Federal regulations are not required because applicant is digging in the uplands and not digging in the wetlands, that according to Mr. Dossett if applicant digs in the uplands it would affect the wetlands somewhat, and that he does not know the answer because he is not a geologist. Attorney Haymans said the answer is that unless you are actually in the wetlands there is no jurisdiction, even if they had jurisdiction, but in order to satisfy concerns of staff and the Board, applicant would agree to the condition that there be a 50' buffer around any wetlands while operating in Phase I in the uplands in order to assure the lack of impact upon wetlands. Attorney Haymans explained that the applicant has state and regional permits to operate, that it is applicant's position that these are isolated wetlands for which the Federal Government has no jurisdiction, and believes a letter will be received stating that.

Mr. Dossett stated he is not a hydrologist and does not know what is required, or if 50' is sufficient.

Commissioner D'Aprile stated he is unable to make a decision until it is resolved that wetlands would not be affected by the digging, unless the Board goes by what item 5 in the Developer's Agreement states specifically.

Attorney Haymans explained the communication that had transpired with the Corps of Engineers to allow operating outside the wetlands and where the issue is at this time. Attorney Haymans suggested that paragraph 5 of the Developer's Agreement be amended so that it states the developer shall not excavate

in wetlands or within 50' of any wetlands on the property, and stated he would place on testimony that 50' is sufficient and that there would be no adverse impact upon the existing wetlands as a result of the 50' buffer.

Chairman Moore asked if Attorney Haymans would like a recess on his portion of the agenda only in order to discuss the matter with staff and bring it back later in the meeting. Attorney Haymans agreed. Attorney Baltz asked if there was anyone from the public who would like to speak.

Attorney Baltz suggested proceeding with the public hearing to avoid citizens having to wait, and asked if there were any members of the public who wished to speak on the matter. Attorney Michael Witt representing Coral Rock advised he had no difficulties with a recess, but may like to speak when it is brought back. It was the consensus of the Board that the public hearing be continued until the agenda item is brought back after recess.

Chairman Moore advised it was 1:15 PM and agenda item 2 is being brought back. (**Commissioner Cummings arrived at 1:20 PM.**)

Mr. Dossett advised staff recommends approval with the four conditions stated on the goldenrod, plus two stipulations contained in the handout material presented by Mr. Dossett and read into the record. Attorney Haymans stated the stipulations are acceptable to the applicant. Public hearing was opened and there was no one wishing to speak.

COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE AGREEMENT 2006-066, WITH THE FOUR CONDITIONS SET FORTH IN THE GOLDENROD, AND TWO ADDITIONAL STIPULATIONS LISTED ON SEPARATE SHEET AS STIPULATIONS #5 AND #6. , SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

3. NOPC-06-07-53 Quasi-Judicial Commission District I Alfred M. Johns, L.C. and Jack F. Stephenson, L.C., is requesting to amend the Sandhill Development of Regional Impact (DRI)

Development Order by decreasing the Research and Development Acreage from 26.2 acres to 4.2 acres, (-22.0 acres) and increasing Residential acreage from 133.7 to 155.7 acres (+22.0 acres), and add 104 additional dwelling units; extending the development order expiry date by approximately two years; providing for a revised Map H; finding that this amendment does not constitute a substantial deviation; and providing an effective date; the Sandhill DRI consists of 730± acres generally located south of DeSoto County, west of the Deep Creek area, north of Rampart Blvd, and east of Loveland Boulevard; Sections 6 and 7, Township 40S, Range 23E in Port Charlotte, Florida; a complete legal description is on file.

(Deputy Clerk Manley administered the oath. Chairman Moore polled the Board for ex-parte disclosures. There were none.)

Michael Konefal advised that petition NOPC-06-07-53 is a request by Alfred M. Johns, L.C. and Jack F. Stephenson, L.C. to adopt a resolution amending the Sandhill Development of Regional Impact which was originally approved in 1981; that the petition eliminates 22 acres of lands located southwest of the intersection of Sandhill Boulevard and Kings Highway designated as "Research and Development", and replaces the same acreage with 104 dwelling units, and extends the buildout date of the DRI by 2 years and 153 days to March 2, 2009; that Community Development Department and the Planning and Zoning Board recommend approval of the petition conditioned upon receiving approval from the Southwest Florida Regional Planning Council (SWFRPC) regarding the extension of the buildout date to March 2, 2009, and upon receipt of a required annual monitoring report, which was to have been received by October 31, 2006, and advised that the majority of the conditions have been satisfied. Mr. Konefal advised that an email was submitted from Mr. Snyder, a single-family property owner to the east of the development, requesting that a canal that runs along the border be maintained, and that additional buffering be included as a condition of the approval. Mr. Konefal pointed out these comments are more appropriate at the DRC stage, and should not be conditioned at this time. Mr. Konefal advised that the Regional Planning Council (RPC) is concerned that there may be inconsistencies in the development order because the Sandhill DRI has had 24 or 25 changes over the last 20 years, and the RPC

requested that an updated development order be created for the Sandhill DRI. Mr. Konefal reported that the applicant has submitted an updated resolution agreeing to update the overall development order within 90 days, and that at this time all issues have been addressed.

Attorney Geri Waksler spoke on behalf of applicants and requested approval.

(Citizen Input - None)

Commissioner Cummings stated that because this is a Quasi Judicial proceeding there is not competent, substantial evidence for him to do other than approve the recommendation.

Commissioner D'Aprile commented on adjustment of the property for the four-laning. Attorney Waksler explained that Wal-Mart is doing the four-laning and that the design has taken into account the necessary right-of-way for the four-laning.

COMMISSIONER CUMMINGS MOVED TO APPROVE RESOLUTION 2006-212, SECONDED BY COMMISSIONER D'APRILE.
Motion Carried 5:0.

4. CDD-06-02 Legislative Commission District III An Ordinance establishing the West Charlotte Harbor Community Development District pursuant to Chapter 190, Florida Statutes; naming the district; describing the external boundaries of the district; describing the functions and powers of the district; designating persons to serve as the initial members of the district's board of supervisors; providing for severability; and providing an effective date.

Jie Shao reported that petition CDD-06-02 for the proposed West Charlotte Harbor Community Development District (CDD) is for a 457-unit mixed-use residential development on 130 more or less acre site located south of Butterford Waterway, east of Santa Cruz Waterway, west of St. Paul Drive, and north of Abalone Road in the West County area; that the Development Review Committee approved a Final Site Plan (DRC-F-06-11) on July 27, 2006 for the Phase I construction of a 300-unit condominium development; and that applicant proposes to form a Community Development

District in order to provide a funding source for the required infrastructure and other project amenities.

Attorney Wesley Haber spoke on behalf of the applicant, and advised that all proper foundation has been done to establish the district.

COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2006-097, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 5:0.

5. Proportionate Fair-Share Mitigation Ordinance Legislative An Ordinance pursuant to Section 163.3180, Florida Statutes; amending Chapter 3-5, Article XIV, of the Code of Laws and Ordinances of Charlotte County; adopting a Proportionate Fair-Share Mitigation Ordinance relating to the methodology used to calculate the impacts of development on County transportation facilities, the restructuring of Article XIV, and providing for an effective date.

Nicole Dozier stated that in order to ensure that transportation facilities can accommodate the increasing population within the County and to be in compliance with Florida Statute 163180(16), that the Proportionate Fair-Share Ordinance needs to be adopted; that the ordinance would establish a program where the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors; that Planning and Zoning Board recommends approval with 1 change, and Community Development, in conjunction with development consultation, recommends approval with minor changes.

Attorney Geri Waksler commented on the timing for submittal of the Fair-Share Agreement noted on page 8, line 1, and suggested the timing be amended, or that there be a provision inserted that if a Fair-Share Agreement is required to comply with DCA requirements, that there be an ability to amend the agreement to reflect the actual impact at the time of rezoning.

Ms. Dozier explained the purpose of putting the item in. Attorney Waksler stated that the intent is not clear, and suggested the language be modified for clarification.

Don Delecy agreed the timing issue should be amended.

Attorney Robert Berntsson stated there are typographical and grammatical errors, and items in the timing that should be adjusted before the ordinance is approved, and urged staff work with those who would use the ordinance to be certain they are all on the same page and that the intent is clear.

Jon Bednerick spoke on behalf of Charlotte/DeSoto Building Industry Association and recommended that the technical items addressed by the other speakers be considered.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

Ms. Dozier advised the deadline is the first of December and expressed concern in meeting the deadline.

Mr. Loucks stated he was certain the language could be worked out, and recommended continuance to the November 28, 2006 meeting, at a time certain.

COMMISSIONER CUMMINGS MOVED TO APPROVE CONTINUING AGENDA ITEM 5 TO NOVEMBER 28, 2006 AT 10:00 AM, SECONDED BY COMMISSIONER LOFTUS.

Ms. Dozier stated there are no objections to what the speakers recommend, and commented on what the initial intent was. **Commissioner Cummings** indicated based upon Ms. Dozier's explanations, he would support the motion.

Motion Carried 5:0.

RECESS: 12:10 PM to 1:15 PM

(Assistant County Administrator Baltz replaced County Administrator Loucks for the remainder of the meeting.)

6. EAR Comprehensive Plan Amendments Legislative Pursuant to 163.3181(1), Florida Statutes, providing for public participation in the comprehensive planning process for the proposed Evaluation and Appraisal Report (EAR) changes and pursuant to Section 163.3184(3), Florida Statutes, transmit to the Department of Community Affairs et al, a Large Scale Plan Amendment to amend the 1997-2010 Comprehensive Plan to update text, maps, diagrams, and policies otherwise reflecting the changes that were the result of the 2003 Evaluation and Appraisal Report (EAR) process; Specifically, amended elements or sections of elements shall include: Future Land Use, Transportation, Natural Resources and Coastal Planning, Infrastructure: Stormwater, Solid Waste, Aquifer Recharge, Potable Water and Sanitary Sewer, Recreation and Open Space, Housing, Intergovernmental Coordination, Capital Improvements, Historic Preservation, Community Facilities and Services. The following elements or sections of elements have been previously approved or do not need approval: Stormwater, Solid Waste, Aquifer Recharge, Historic Preservation, Community Facilities and Services. These items will only be considered again, if needed, and be reopened for public hearing under such circumstances. Applicant: Charlotte County Board of County Commissioners.

Tom Scott explained that in accordance with Florida Statutes 163.3191(1) each local government is required to adopt an Evaluation and Appraisal Report (EAR) that assesses the progress and implementation of the local government's comprehensive plan once every seven years; that the amendments were prepared by County staff; and that the County is the applicant. Mr. Scott advised that the update to the Comprehensive Plan is intended to incorporate changes to the 2003 EAR; that the plan amendments were reviewed by the Planning and Zoning Board on November 13, 2006, and approved for transmittal with changes noted in the packages; advised that the document is available for review in the Charlotte County libraries, online through the Community Development Department website, and versions are available on CD-Rom. Mr. Scott advised that 4 of the 13 sections have previously been reviewed and approved by the Board of County Commissioners (Board), that the Aquifer Recharge section required no updates, but is included for transmittal approval, and that the four previously approved sections are included for

continuity. Mr. Scott advised that today the Board could choose to review, discuss and vote on the previously heard 5 sections, and advised that those sections were advertised as being on this agenda. Mr. Scott stated that because this is a transmittal hearing there is an opportunity for changes or modifications before the adoption period. Mr. Scott reviewed the transmittal process, and advised there is a special sign-up sheet at the back of the room for persons who wish to receive correspondence directly from the Department of Community Affairs (DCA) for this process.

COMMISSIONER LOFTUS MOVED TO APPROVE THAT ITEM 6, PA-06-10-62-LD, AQUIFER RECHARGE SECTION, BE TRANSMITTED TO THE DEPARTMENT OF COMMUNITY AFFAIRS (DCA), SECONDED BY COMMISSIONER D'APRILE. COMMISSIONER LOFTUS MOVED TO APPROVE CLOSING THE PUBLIC HEARING ON ITEM 6, PA-06-10-62-LD, AQUIFER RECHARGE SECTION, SECONDED BY COMMISSIONER DUFFY.
Motion Carried 5:0.

It was the consensus of the Board that an additional hearing process for item numbers 4,5,12 and 13 that were previously approved is not required, but that a public hearing is required before transmitting item 6, Aquifer Recharge.

Motion Carried 5:0.

Mr. Scott pointed out that all items must be transmitted to DCA together.

1. PA-05-12-89-LS Future Land Use Element

Thomas Cookingham reviewed the changes and recommendations of the Future Land Use Element of the EAR report.

Commissioner Duffy commented on the removal of objectives and ensuing policies for the Murdock Village Mixed Use Redevelopment District. Mr. Cookingham explained that a new set of goals, objectives and policies would be brought back.

Charlotte Ventola stated it would be helpful if a short summary was made on major changes to each of the items before the presentation.

Attorney Robert Berntsson stated there are many areas that need to be reviewed by the Board before these are passed, and suggested some type of round-table group be appointed to sit down and review the changes.

Attorney Geri Waksler agreed with Attorney Berntsson, and indicated the document should not be changed until there has been a full discussion with notice to everyone in the community.

Attorney Michael Haymans agreed with Attorneys Berntsson and Waksler that there should be a full debate.

Chairman Moore inquired of the practitioners about timeframe. Attorney Haymans stated that into February is too long, but that December or early January is reasonable in the balance of time, and indicated that a couple days of workshop time is needed.

Michael Konefal indicated that a 20-30-day delay would be acceptable, but an effort is being made to have it finished by the end of the year, and that it would create a problem for many by delaying it into next year.

Jon Bednerick agreed this is not ready to go forward.

**COMMISSIONER D'APRILE MOVED TO APPROVE CLOSING THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.
Motion Carried 5:0.**

Commissioner D'Aprile stated that no decision should be made today because there are many controversies, and suggested that some type of meetings or workshop be done by those who are concerned with what is contained in the Comprehensive Plan be held, but that those meetings or workshops not be delayed too long.

Commissioner Duffy stated that the attorneys who spoke have good input and believes it would be negligent of the Board not to request as much feedback as possible, suggested that the remaining 8 sections be covered by workshops prior to the next Land Use Meeting and be prepared for more input, and indicated she is unable to vote on this today.

Commissioner Loftus stated that the public has not had adequate time to review the document and should be given 30 days in which to do so.

Commissioner Cummings agreed there should be some delay, but cautioned about too much delay, and indicated it has worked well in the past where there is not consensus and large volumes of material to cover that practitioners work with staff in workshops on the issues.

Chairman Moore thinks it will take more time than he is hearing right now, does not see this happening in one or two workshops, and inquired if the practitioners had consensus of a procedure.

Attorney Berntsson advised there are some issues more important than others, and indicated those matters could be taken first. Attorney Berntsson suggested that the practitioners meet with staff and bring those matters to the Board, that a series of workshops be held, and those who are unable to attend the meetings listen to the tapes or review the minutes.

COMMISSIONER CUMMINGS MOVED TO APPROVE THAT STAFF AND THE PRACTITIONERS MEET AND WORK OUT THE ITEMS THAT REQUIRE A POLICY DECISION NOW, BRING THOSE ITEMS BACK FOR A WORKSHOP, THEN HAVE A SECOND ROUND OF TRANSMITTAL HEARINGS, AND THAT THE WORKSHOPS BE HELD IN THE BOARD CHAMBERS AND BE TELEVISED SO THAT ALL OF THE PUBLIC HAS AN OPPORTUNITY TO BE FAMILIAR WITH THIS, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Duffy recommended the workshops be in an informal manner.

Motion Carried 5:0.

Discussion ensued regarding scheduling of workshops. **Chairman Moore** and **Commissioner Cummings** agreed that Board members would be at the meetings with practitioners and staff as observers only. Mr. Konefal stated that staff would schedule meetings between staff and practitioners, that the Board would sit in as they could, and that staff would schedule workshops later with the Board.

Commissioner Duffy advised she would like to have a vote by the December 19, 2006 meeting, if possible.

Mr. Baltz clarified that the direction the Board wants staff to proceed with is to attempt bringing transmittal hearings before the Board by the end of December 2006, and advised that in so doing it would move the adoption hearings from March to April, 2007.

Chairman Moore advised he hopes to have schedules available by November 22 or 27, 2006. Mr. Konefal said he would review the calendar and solidify something by the November 28, 2006 Board meeting.

2. PA-06-10-60-LS Transportation Element
3. PA-05-12-90-LS Natural Resources and Coastal Planning Element
4. PA-05-05-35-LS *Stormwater
5. PA-05-04-22-LS *Solid Waste
6. PA-06-10-62-LS **Aquifer Recharge
7. PA-06-10-61-LS Potable Water and Sanitary Sewer
8. PA-05-05-34-LS Parks and Recreation Element
9. PA-05-12-86-LS Housing Element
10. PA-05-12-88-LS Intergovernmental Coordination Element
11. PA-05-12-87-LS Capital Improvements Element
12. PA-05-12-85-LS *Historic Preservation Element
13. PA-05-05-37-LS *Community Facilities and Services Element

Book 64, Page 1003
November 21, 2006

* Previously approved by the Board of County Commissioners; item will only be presented at today's meeting if requested by Board of County Commissioners.

** Does not require review.

MEETING ADJOURNED 2:35 PM.

Signature on file in Commission Minutes

Chairman Moore

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

gm