

**BOARD OF COUNTY COMMISSIONERS**

**MARCH 13, 2007**

A regular meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Loftus, Commissioner Duffy, Commissioner Cummings, Commissioner D'Aprile, and Commissioner Moore. Also in attendance were County Attorney Knowlton, County Administrator Loucks, Chief Deputy White, Executive Assistant Blair, and Minutes Supervisor Nice. The following members were absent: None. The meeting was called to order at **9:00 AM**.

The Invocation was given by Pastor Jamie Snyder, First Christian Church, followed by the Pledge of Allegiance.

**Changes to the Agenda:**

Deletion #1: Proclamation - Forget-Me-Not-Days

Deletion #2: Public Safety, Agenda Item R-1, Lease Agreement with T-Mobile South, LLC

Addition #1: Community Development, Approve scheduling a Special Board of County Commissioners meeting on April 26, 2007 for discussion of EAR and other backlogged items and April 27, 2007 will be reserved in the event extra time is needed.

Change #1: Board Workshop - Change to Round-Table Discussion - Separate Agenda - No citizen input and no decisions to be made

Change #2: Budget Office, Agenda Item F-1, Change the date from March 27, 2007 to April 10, 2007

**COMMISSIONER D'APRILE MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

**Proclamations - Commissioner Tricia Duffy**

**COMMISSIONER D'APRILE MOVED TO APPROVE THE PROCLAMATION FOR ARTS AND HUMANITIES COUNCIL ARTIST OF THE MONTH - PAT HAAS, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

Pat Haas accepted the Proclamation.

**COMMISSIONER D'APRILE MOVED TO APPROVE THE PROCLAMATION FOR SENIOR GAMES WEEK, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

Joann Larson, Parks and Recreation, accepted the Proclamation, introduced Sherman Doster, a Parks and Recreation employee, who will be going to the Nationals in July, and showed a video entitled Fit for Life Senior Games showing some of the participants and games.

Chairman Loftus thanked employees of Parks and Recreation staff for all of their efforts especially for seniors.

Employee Recognition - Commissioner Tricia Duffy and County Administrator Bruce Loucks

Five years: Joyce Burke, Environmental & Extension Services; Heidi Clement, Building Construction Services; Andre Deschenes, Community Development; Thomas DiPaolo, Jr., Public Works; Ten years: Edward Buchholz, Public Works; Gerald Mazzoni, Fire/EMS; Fifteen years: Carl Bailey, 15 Fire/EMS; and Twenty-five years: Louis Adamo, Fire/EMS

**Presentations - No Items**

**I. CITIZEN INPUT - AGENDA ITEMS ONLY**

**Chairman Loftus** stated the round table discussion forums are for staff to provide information to the Board. County Attorney Knowlton stated a written request was received from the attorney for Mr. and Mrs. Wallace for all of them to speak when Agenda Item Z-1 is being discussed instead of during Citizen Input. **Commissioner Moore** expressed reluctance to change the rules. **Chairman Loftus** agreed. **Chairman Loftus** announced they should speak during Citizen Input. **Commissioner Cummings** stated this is a first-time legal process and asked about granting additional time. County Attorney Knowlton concurred with the Board's decision.

Joseph Fleming questioned the need to be sworn in. County Attorney Knowlton indicated no. Mr. Fleming explained the

history of the case for the variance regarding the dock that has been denied by the Board of Zoning Appeals under Agenda Item Z-1; if this is granted, he knows of one other property owner who will file for a variance to construct a dock on a 40' wide lot; and urged the Board to deny the petition.

Attorney Robert Pratt appeared on behalf of Mr. and Mrs. Wallace in support of the variance pursuant to Agenda Item Z-1; stated the Special Magistrate rendered recommendations after considering all of the testimony and evidence to including grant of the variance; and asked the Board to accept the recommendation.

Robert Wallace read a statement pertaining to Agenda Item Z-1 about inaccurate testimony given to the Board of Zoning Appeals (BZA) on the incompatibility of the dock and lift; lot 6 was purchased in July 2006 as part of a multi-lot transaction to construct a home; he and his wife had no knowledge that a variance was needed prior to building; and they pursued construction of the dock and lift to protect their rights.

David Donohew, Veterans Service Officer, commented in support of Agenda Item Z-4 that will only impact 10 to 11 veterans; this is a great opportunity for Charlotte County to do something positive for veterans; enumerated other Florida counties that have already adopted this; and asked the Board to vote yes.

Grace Amodeo thanked the Board for implementing Round Table Discussions and stated it is the greatest thing since apple pie.

Senior Commander Bill Kopp, American Legion Post 103, presented the resolution adopted by the Post unanimously in support of the up to \$1,500 for veterans under Agenda Item Z-4.

Joan C. Schilling requested the Board to deny Agenda Item Z-1 for the variance for Mr. and Mrs. Wallace for boat dock and lift because lot 6 is only one-half the size of a buildable lot and submitted a January 5, 2007 letter.

Clyde Prier, Veterans of Foreign Wars Post 5580, commented in support of the ad valorem reduction for 10 to 15 veterans who own property in the County under Agenda Z-4, advised a North

Port Council Member has asked for information on this topic, and asked that Charlotte County become the 6th county to do this.

Michael Poff indicated he has been studying the situation for over three years relating to Agenda Item Z-1; in 2003 Tom Smith indicated it was not buildable; the dock was built in 2005 and Nicole Dozier sent a letter in December 29, 2005 to the Wallaces explaining a variance was required which started this proceeding; the BZA denied the request and the Special Master heard the case and rendered certain recommendations; read an excerpt from the Burt Harris Act; commented on the non-conforming situation and how it came about; the County made a mistake is issuing the dock permit; and requested the Board uphold the BZA decision and require removal of the dock.

## **II. COMMITTEE VACANCIES**

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

Affordable Housing Advisory Committee - is seeking one volunteer as the Labor Home Building representative to serve for a two-year term.

Construction Board of Adjustments and Appeals is seeking four volunteers to serve. One general building contractor, one mechanical contractor, one member-at-large and one member to serve as alternate. Terms are for three years.

Children's Services Council - is seeking four volunteers to serve on the Children's Services Council for a four year term. Applicants must have a demonstrated interest in public service, be a resident of Charlotte County and maintained a residence in Charlotte County for the previous 24 months. Members will be appointed by the Governor from a list of nominees chosen by the Board of County Commissioners. Letters of intent to serve and a resume will be accepted until March 21, 2007.

Greater Port Charlotte Street and Drainage Advisory Committee is seeking one volunteer to serve as the alternate member on the advisory committee for a two-year term and must be a resident of the unit.

Harbor Heights Waterway Maintenance District Advisory Board - is seeking two volunteers (one regular member and one alternate). Volunteers shall be residents of the Harbor Heights Waterway Maintenance District. The term for the regular member shall be pulled by lot number at the first scheduled meeting and the alternate member shall serve a term of two years.

**III. REPORTS RECEIVED AND FILED - None**

**IV. CONSENT AGENDA**

**COMMISSIONER D'APRILE MOVED TO APPROVE IV. CONSENT AGENDA, SECONDED BY COMMISSIONER MOORE.  
Motion Carried 5:0.**

**Clerk of the Circuit Court**

**A. Finance Division**

(1) RECOMMENDED ACTION: Approve Clerk's Finance Memoranda.  
BUDGETED ACTION: None

Memorandum #1 Status of Contingency Reserves - FY 05/06  
Memorandum #1A Status of Contingency Reserves - FY 06/07  
Memorandum #2 Total Disbursement for the period February 23  
through March 5, 2007 in the amount of  
\$15,290,686.73

**B. Minutes Division**

(1) RECOMMENDED ACTION: Approve minutes for:

11/21/06 9:00 AM Land Use Public Hearings  
11/28/06 9:00 AM Board of County Commissioners Regular Meeting  
11/28/06 2:00 PM Executive Session - American Invest LC  
vs. Charlotte County  
12/06/06 1:30 PM Special Workshop - Evaluation & Appraisal  
Reports  
12/08/06 9:00 AM Joint Meeting - City of Punta Gorda  
12/12/06 9:00 AM Board of County Commissioners Regular Meeting  
12/19/06 9:00 AM Board of County Commissioners Regular Meeting &  
Land Use Public Hearings

BUDGETED ACTION: None

Board of County Commissioners

C. Commission Office

(1) RECOMMENDED ACTION: Appoint members to the Greater Port Charlotte Street and Drainage Advisory Committee. Letters of interest have been received from: Bob Logan, Jay Carlson, Grover Mudd, Ken Moore, and Catherine Miller. Terms will be determined at the first scheduled meeting and we will continue to advertise seeking an alternate member. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Appoint Joseph Fleming, Eric Frohn, Larry D. Rand and Kenneth Wangler as regular members to the Harbor Heights Waterway Maintenance District Advisory Board. The vacancies have been duly advertised. There will continue to be two vacancies, which we will continue to advertise; one is for a regular member and the other is for the alternate position. The term for the regular member shall be pulled by lot numbers at the first scheduled meeting on the Committee, the alternate shall serve a two-year term. BUDGETED ACTION: None

(3) RECOMMENDED ACTION: Appoint Mr. Ray Warner, current alternate member of the South Gulf Cove Waterway Advisory Committee, to the recently vacated position of regular member Mr. Richard Rhodes who resigned his position on February 15, 2007. The term will expire on January 9, 2010. BUDGETED ACTION: None

D. Administration

(1) RECOMMENDED ACTION: Approve Community Development Block Grant (CDBG) Water/Sewer Connection Program Policy guidelines to **Grant 2005-022**. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve the amended Commercial Rehabilitation policy to **Grant 2005-022**. BUDGETED ACTION: None

(3) RECOMMENDED ACTION: Approve an agreement between Charlotte County and Charlotte Harbor Water Association. BUDGETED ACTION: None

**Grant 2007-009**

(4) *RECOMMENDED ACTION*: Approve setting a Public Hearing on March 27, 2007 at 10:00 a.m., or as soon thereafter as may be heard, to discuss amending the Community Development Block Grant #06DB-3C-09-18-01-W05 to fully fund the Bernice Russell and Trabue Woods multi-family developments. *BUDGETED ACTION*: None

(5) *RECOMMENDED ACTION*: Approve waiver of parking regulations for the No Parking zone along Placida Road for the Placida Seafood Festival to be held on March 17 and 18, 2007. *BUDGETED ACTION*: None

**Resolution 2007-041**

E. County Attorney - No Items

F. Budget Office

(1) *RECOMMENDED ACTION*: Set a Board Workshop on Tuesday, April 10, 2007 at 10:00 a.m. to present MSBU Study prepared by Government Services Group. *BUDGETED ACTION*: None

G. Community Development

(1) *RECOMMENDED ACTION*: Approve a revised agreement with Babcock Property Holdings, LLC and the Southwest Florida Regional Planning Council with respect to a Master DRI Agreement. *BUDGETED ACTION*: None

**Agreement 2007-018**

(2) *RECOMMENDED ACTION*: Approve setting two Public Hearings: One for Tuesday, March 20, 2007 at 9 a.m. and one for Monday, April 2, 2007 at 9 a.m. to amend the Codes of Charlotte County relating to excavation and earthmoving activities. Approve second hearing (April 2, 2007) relating to amending the Code to be held at a time other than a 5:01 p.m. hearing. *BUDGETED ACTION*: None

H. Economic Development

(1) *RECOMMENDED ACTION*: Approve the Infrastructure Incentive Grant Program Policy Guidelines for the Charlotte Harbor Community Redevelopment Area. *BUDGETED ACTION*: None

As part of the 2006 Work Plan adopted on November 28, 2006.

J. Environmental Services

(1) *RECOMMENDED ACTION*: Approve Budget Amendment #07-A18 to the Mosquito Department's State Budget in the amount of \$194,000. *BUDGETED ACTION*: Budget Amendment #07-A18 in the amount of \$194,000 to the Mosquito State Budget for FY06/07

(2) *RECOMMENDED ACTION*: Adopt a Resolution requesting Florida Forever Program's acceleration and renewal, and directing our Legislative Delegation and County Lobbyist to advocate for additional, accelerated funding for Florida Forever, as well as the creation and funding of a successor program to Florida Forever. *BUDGETED ACTION*: None

**Resolution 2007-036**

K. Facilities Construction and Maintenance - No Items

L. General Services

(1) *RECOMMENDED ACTION*: Approve Novation for Contract #05-339, Painting Contractor-Annual, from current vendor Olson Painting Services, LLC to Olson Painting of Charlotte County, Inc. *BUDGETED ACTION*: None

(2) *RECOMMENDED ACTION*: Approve deletion of the property inventory items listed on the attached for the month of March, 2007. *BUDGETED ACTION*: None

(3) *RECOMMENDED ACTION*: a) Approve ranking of firms for RFP #07-177, Land Acquisition and Management Assistance: 1st-Peer, Inc., 2nd-The Nature Conservancy, and 3rd-Miller Legg; b) Approve start of negotiations; c) Authorize the Chairman to sign the three-year contract after completion of negotiations, providing the fees do not exceed \$300,000; and d) Authorize County Administrator to approve additional two-year renewal, if necessary. *BUDGETED ACTION*: The contract will be paid out of the Natural Resources Department's other contract services line 1031.152017.515.34.0001. The approximate cost for the remainder of FY07 is \$70,000.

(4) *ECOMMENDED ACTION*: Approve Award of Bid #07-211, Stormwater Improvements - Atwater Street, to the lowest responsive, responsible bidder, Billy Hay Excavating, Inc., for a total cost of \$195,051.68. *BUDGETED ACTION*: The FY06/07 Transportation Trust Fund budget contains \$236,000 for this project.

(5) *RECOMMENDED ACTION*: Approve Change Order #10 to Contract 99-169, Combined Parks & Recreation Projects, Group II (Resource-based) Parks, with Wilson-Miller, Inc. in the amount of \$44,500. *BUDGETED ACTION*: Available budgeted \$938,706 in Sunrise Park.

*M. Human Resources*

(1) *RECOMMENDED ACTION*: a) Approve an agreement with Unisource Administrators for Third Party Claims Administration; and b) Authorize County Administrator to sign the agreement. *BUDGETED ACTION*: None

**Agreement 2007-021**

*N. Human Services*

(1) *RECOMMENDED ACTION*: Approve Budget Amendment #07-A17 in the amount of \$14,805 and authorize County Administrator to sign subcontract with Lee County Human Services for the administration of the Charlotte County Neighborhood Accountability Board (NAB). *BUDGETED ACTION*: Budget Amendment in the amount of \$14,805.00

**Grant 2007-010**

*P. Information Technology - No Items*

*Q. Parks, Recreation & Cultural Resources*

(1) *RECOMMENDED ACTION*: Approve budget transfer #07-014 and CIP Budget Amendment #07-C09 for \$40,000 for increased cost of materials for the Bayshore Road Lighting Project. *BUDGETED ACTION*: Approve Budget Transfer #07-014 and CIP Budget Amendment #07-C09 for \$40,000.

(2) **RECOMMENDED ACTION:** a) Approval of a resolution supporting the submittal of the application for grant funds for the West County Library and b) Authorize the Chairman to sign the Certification of Application document for the Public Library Construction Grant for the West County Regional Library. **BUDGETED ACTION:** \$1,200,000 budgeted in West County Regional Library project for design in FY 2007 and \$9,560,000 budgeted in West County Regional Library project in FY 2008.

**Resolution 2007-037**

(3) **RECOMMENDED ACTION:** Approve Budget Amendment #07-A14 for \$26,277 for donations received for the 1st quarter of FY 2007. **BUDGETED ACTION:** Approve budget amendment #07-A14 for \$26,277.

R. Public Safety - No Items

S. Public Works

(1) **RECOMMENDED ACTION:** Approve and authorize the BCC Chairman to sign the attached Florida Department of Environmental Protection (FDEP) Funding Agreement #03CH1, Amendment #3 to **Grant 2003-006**, for Knight Island Beach Restoration. **BUDGETED ACTION:** None

(2) **RECOMMENDED ACTION:** Approve a resolution requesting that the Florida Department of Transportation (FDOT) reduce the speed limit on U.S. 41 from 65 mph to 55 mph from Acline Road south to Morningside Drive in Charlotte County, Florida. **BUDGETED ACTION:** None

**Resolution 2007-038**

T. Real Estate Services

(1) **RECOMMENDED ACTION:** Approve a Resolution authorizing the Chairman of the Charlotte County Board of County Commissioners to grant Embarq Florida Inc., a twenty-five by twenty-five foot (25'x25') wide permanent utility easement for the installation of cabinets for housing fiber optic cables in a certain portion of a Park Strip, Port Charlotte Subdivision, Section Twenty-Five, lying in Section 26, Township 40 South, Range 22 East, near the intersection of US-41 and Gardner Drive. Embarq

will pay \$2,800.00 to Charlotte County for the easement.  
BUDGETED ACTION: None

**Resolution 2007-039**

(2) *RECOMMENDED ACTION:* Approve the attached Resolution approving the release of a portion of a twenty-five foot (25') wide drainage and utility easement located in Port Charlotte Subdivision, Section Forty-Four, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easement. (Owners: James F. and Paula A. Dexter) *BUDGETED ACTION:* None

**Resolution 2007-040**

V. Tourism Development - No Items

W. Utilities - No Items

X. Building Construction Services - No Items

Y. Constitutional - No Items

**V. REGULAR AGENDA**

Z. Regular Business

(1) Community Development - *RECOMMENDED ACTION:* Discussion to accept, modify or reject the recommendation of the Special Magistrate as submitted and received by Charlotte County on February 6, 2007 in reference to the denial of Mr. and Mrs. Wallace's variance request for a boat dock and lift located at 87421 Voyageur Drive.

Nicole Dozier stated on August 9, 2006, the BZA denied the variance for the boat lift and dock because it did not meet Criteria #4 based on incompatibility; a Special Magistrate heard the case and made recommendations; staff recommends approval of the Special Magistrate finding to approve the variance and allow the dock and lift. **Commissioner Duffy** requested verification that the variance would not have been approved if procedures were followed correctly. Ms. Dozier explained BZA would have had the opportunity to rule on its prior to construction,

reviewed the Code regarding non-conforming lots and structures requiring approval of a variance, and stated the variance proceeding should have been done prior to issuance of the permit but the County mistakenly issued the permit. **Commissioner D'Aprile** noted the County's error in issuing the permit on the non-conforming lot; submerged portions of the lot are included in staff's calculation of total lot size; and there is City water but not sewer so a septic system would be required. Ms. Dozier enumerated the options that the Board needs to decide on e.g. removal or retention of the dock and lift and pointed out applicants would need Health Department approval prior to construction of a home. Ms. Dozier indicated staff recommends acceptance of the Special Magistrate's finding to allow the dock and lift and pointed out additional findings pertaining to construction of a house which is not being addressed at this time.

**Commissioner Moore** noted the lot is vacant but there is a lift and dock. Ms. Dozier expressed uncertainty about the working of the lift without electricity to the site. **Commissioner Moore** expressed understanding that Florida Power & Light would not provide electricity to a site without a home; stated a non-conforming lot was created by other than the County and it could have been avoided; there is no sewer in the area; it is incompatible with the area and creates a risk to the entire neighborhood; it may set a precedent; and he will go against the Special Magistrate recommendations and oppose the variance.

**Commissioner Cummings** requested verification if approving this variance will set a precedent. Attorney Knowlton stated approval of the variance would be questionable insofar as setting a precedent since each variance is decided on a case-by-case basis. **Commissioner Cummings** requested the circumstances that would make this variance unique. Ms. Dozier explained a replat would need to be done or property owners would need to consolidate lots to make them conforming lot but this was a single free-standing lot whereas a kill and combine would enable one tax bill on two lots but it would not make the lots conforming. Ms. Dozier advised the Code allows construction on non-conforming lots if the applicant goes through a variance proceeding and it is approved prior to permit issuance. **Commissioner Cummings** stated the County issued a permit in error and questioned if grant of the variance on the boat dock

would allow construction of a house. Attorney Knowlton stated the applicants would need to file for a variance to build the house even if this variance is granted. Ms. Dozier reiterated as long as the house meets current development standards. **Chairman Loftus** expressed concern in getting involved with a Burt Harris Act proceeding that would cost taxpayers. **Commissioner Duffy** stated the County issued a permit in error, the dock exists, and it should not be removed but expressed concern about the impact on the neighborhood; stated there has to be an amicable solution; building homes on 40 feet wide lots create health and safety issues; and the County needs to address building houses on non-conforming lots. Ms. Dozier reported a house can be built as long as the structure meets current development standards. **Chairman Loftus** reiterated concern about the County getting involved in a Burt Harris Act taking and costing taxpayers.

**Commissioner D'Aprile** expressed concern about taking the property under the Burt Harris Act, indicated opposition to allow building on a non-conforming lot, and rejected the Special Magistrates recommendations.

**COMMISSIONER D'APRILE MOVED TO DENY THE SPECIAL MAGISTRATE'S RECOMMENDATIONS AND THE APPLICATION FOR A VARIANCE, SECONDED BY COMMISSIONER MOORE.**

**Commissioner Cummings** recalled certain areas of the County have prohibitions against development without sewers e.g. South Gulf Cove, and questioned the possibility of implementing stricter development standards in areas zoned with less density and low lying waterfront properties without incurring ramifications from the Burt Harris Act e.g. aerobic treatment systems or other systems for nutrient loading. Ms. Dozier expressed uncertainty and commented on the need to work with numerous departments to eliminate adverse legal impacts in drafting revisions to the Land Development Regulations (LDRs). **Chairman Loftus** recalled Florida Department of Environmental Protection (FDEP) required sewers in South Gulf Cove and the Manchester Waterway area for platting purposes. **Commissioner Cummings** stated the requirements for sewers in those two areas were done at the time of platting whereas the requirements would now be implemented as a result of the standards in the Comprehensive Plan. **Chairman Loftus** suggested Community Development and

County Attorney staff research it. **Commissioner Cummings** stated he is inclined to support staff's recommendation and the process will have to be done all over again for construction of a house, hopefully, the owners and neighbors will come to an amicable solution, and consideration needs to be given to this issue in revising the LDRs. **Commissioner Duffy** agreed and stated, hopefully, an amicable solution will be found because she cannot support construction of a home on the non-conforming lot.

**Motion Failed 2:3. Chairman Loftus, Commissioner Duffy, and Commissioner Cummings opposing.**

**COMMISSIONER CUMMINGS MOVED TO ADOPT STAFF'S RECOMMENDATION WHICH IS A MODIFICATION OF THE SPECIAL MAGISTRATE'S RECOMMENDATION TO ONLY GRANT THE APPLICANTS' VARIANCE REQUEST FOR THE BOAT DOCK AND LIFT ON THE REAL PROPERTY, SECONDED BY COMMISSIONER DUFFY.**

**Commissioner D'Aprile** questioned the guarantee that a house will not be built on the lot. Attorney Knowlton stated she cannot provide that guarantee. **Commissioner D'Aprile** advised that is his position.

**Motion Carried 3:2. Commissioner D'Aprile, and Commissioner Moore opposing.**

(2) Environmental & Extension Services - RECOMMENDED ACTION: Consideration of the Memo of Understanding between Charlotte County and U.S. Fish and Wildlife Service, regarding Scrub jay procedures.

Mr. Loucks reported numerous meetings have been held between staff, the public, building and business representatives, and Fish and Wildlife officials and numerous emails have gone back and forth; Fish and Wildlife officials use the map designating the red, yellow, and green zones and the polygon methodology for releasing building permits. Mr. Loucks requested approval of the Memorandum of Understanding (MOU) to expedite release of building permits with negative survey results; staff requested Fish and Wildlife officials to attend a Board meeting and they have not done so; staff will continue to seek relief for property owners in the transition mode but Fish and Wildlife has only agreed to review each on a case-by-case

basis; and explained Building Industry Association (BIA) staff are also advocating the release of building permits with negative surveys.

James Thomson and Andrew Stevens updated the Board on staff's efforts to review negative surveys for releasing building permits. **Commissioner D'Aprile** expressed support for expediting permits for owners who filed for permits prior to identifying scrub jays on their property, requested relief for an individual who filed for a permit and secured a loan, and questioned the possibility of the County intervening with Fish and Wildlife to provide some relief in these situations. Mr. Loucks reiterated the County can only issue permits after Fish and Wildlife review and approval on a case-by-case basis and pointed out Mr. Stevens is the point person between Fish and Wildlife and the County. Mr. Stevens reported a lot of people come in on a daily basis and staff is helping to facilitate the process. **Commissioner Moore** stated there is not enough certainty in the process and requested verification that property owners may proceed with the building process if scrub jays are not located on their property. Mr. Stevens responded affirmatively. **Commissioner Moore** questioned why property owners would incur the \$3,000 cost for a survey when a polygon has been determined on their property for scrub jays. Mr. Stevens stated a survey will determine the actual impact and the location of the scrub jays since the polygon is an average 13-acre site and there is a possibility that the lot does not fall within the polygon. **Commissioner Moore** commented on mitigating with the purchase of two lots. Mr. Stevens reported that the monies would be deposited into the Land Acquisition Fund. **Commissioner Moore** recalled the County may be fined \$100,000 if a permit is issued in error. Mr. Stevens stated if the County or an individual purposefully took a scrub jay, fines could be levied up to \$100,000 per bird. **Commissioner Cummings** stated the County has little to no discretion as to the applicability of the rules but the County does have an opportunity to expedite one portion of the process.

**COMMISSIONER CUMMINGS MOVED TO APPROVE THE MEMO OF UNDERSTANDING (AGREEMENT 2007-022) BETWEEN CHARLOTTE COUNTY AND U.S. FISH AND WILDLIFE SERVICE, REGARDING SCRUB JAY PROCEDURES, SECONDED BY COMMISSIONER D'APRILE.**

**Commissioner Moore** concluded once a permit is received, the slab should be pour as soon as possible and requested confirmation that construction would be allowed to go forward even if scrub jays are sited. Mr. Stevens stated as long as the footprint of the slab or the concrete is down and no changes are made, the construction would be able to continue. Commissioner D'Aprile stated the life expectancy of a scrub jay is 10 years and habitats will expand with the increased population of the scrub jays. Mr. Stevens reported populations of scrub jays are decreasing, locations of polygons will change based on migration of the birds, and estimated the bread may be gone in about 30 to 40 years due to loss of habitat among other reasons e.g. South Venice is down 70%.

**Motion Carried 4:1. Commissioner Moore opposing.**

(3) Parks, Recreation & Cultural Resources - RECOMMENDED ACTION: Board direction for staff to: a) Negotiate for the purchase of property, a 23.33 acre (+/-) waterfront parcel in Mid-County located in El Jobean on the Myakka River and b) Develop funding strategies to accomplish this acquisition. Specifics of the condition of offer and funding options would be brought back to the Board for consideration and approval.

Laura Kleiss-Hoeft recalled in the Spring 2006, the Board directed staff to pursue acquisition of the Myakka/El Jobean and Buck Creek properties; Florida Communities Trust (FCT) appraisals were utilized; negotiations failed with the owner of the Myakka/El Jobean site due to the significant different in the selling price and appraisal; the owner has reduced the asking price down to the appraised value; and requested direction on moving forward with the acquisition of the 23.33 acres that provides 1,100 feet frontage on the Myakka River and potential funding; staff is recommending that the acquisition be presented to the Environmental Lands Acquisition Committee (ELAC) for borrowing monies with an application to FCT in May for 50% grant funding. Ms. Kleiss-Hoeft reported staff is looking at two FCT grants this year for Buck Creek and Myakka/El Jobean properties as part of the pre-acquired property process to possibly gain more points; the Parks and Recreation Advisory Board has moved forward with an application to the Environmentally Sensitive Lands Oversight Committee for consideration on April 3, 2007; enumerated

benefits for acquiring the Myakka/El Jobean property; and letters of support have been received from various agencies and groups.

**Commissioner Duffy** asked if the acquisition will reduce the number of platted lots. Ms. Kleiss-Hoeft advised 126 lots plus additional lands based on road vacations within the subdivision.

**COMMISSIONER D'APRILE MOVED TO APPROVE TO DIRECT STAFF TO: A) NEGOTIATE FOR THE PURCHASE OF PROPERTY, A 23.33 ACRE (+/-) WATERFRONT PARCEL IN MID-COUNTY LOCATED IN EL JOBEAN ON THE MYAKKA RIVER AND B) DEVELOP FUNDING STRATEGIES TO ACCOMPLISH THIS ACQUISITION. SPECIFICS OF THE CONDITION OF OFFER AND FUNDING OPTIONS WOULD BE BROUGHT BACK TO THE BOARD FOR CONSIDERATION AND APPROVAL, SECONDED BY COMMISSIONER CUMMINGS.** **Commissioner Moore** stated he is not opposed to the project but he is concerned about additional expenditures at a time when it is uncertain about the impacts that State budgetary reductions will have on Charlotte County. **Commissioner D'Aprile** stated it will probably take a year to go through the process and funding options are to be brought back to the Board. **Commissioner Cummings** pointed out the referendum approved by the voters added 1% to the millage for environmental lands acquisition and wondered if the State reduces the millage by 40% would this 1% be included in that reduction. **Commissioner Duffy** indicated support based on the referendum approved by the voters contingent upon approval by ELAC.

**Motion Carried 5:0.**

(4) Commission Office - **RECOMMENDED ACTION:** Consider creating a Charlotte County Active Military Combat Duty Grant Program which would allow a reduction of ad valorem taxes (not to exceed \$1,500) to any Veteran who owns a home in Charlotte County and has served 45 days or more in combat in the Iraq War.

**Commissioner D'Aprile** requested consideration of providing relief from ad valorem taxes of up to \$1,500 for military personnel who have served at least 45 days in Iran and the current Far East War; approximately 10 to 11 people have been identified which would equate to an overall reduction of about \$15,000; Leon, Jacksonville-Duval, Marion, Hillsborough, and

Manatee Counties have adopted similar programs and Sarasota and North Port Cities are considering this type of program; no decision can be made today and specifics need to be brought back at the next Board meeting.

**COMMISSIONER MOORE MOVED TO DIRECT THE COUNTY ATTORNEY STAFF IN COORDINATION WITH COMMISSIONER D'APRILE TO DEVELOP AN ORDINANCE CREATING A CHARLOTTE COUNTY ACTIVE MILITARY COMBAT DUTY GRANT PROGRAM WHICH WOULD ALLOW A REDUCTION OF AD VALOREM TAXES (NOT TO EXCEED \$1,500) TO ANY VETERAN WHO OWNS A HOME IN CHARLOTTE COUNTY AND HAS SERVED 45 DAYS OR MORE IN COMBAT IN THE IRAQ WAR AND BRING IT BACK AT THE NEXT CONVENIENT MEETING WITH DETAILS ON THE NUMBER OF IMPACT MILITARY PERSONNEL AND THE IMPACT ON THE TAX ROLL, SECONDED BY COMMISSIONER D'APRILE.** Commissioner Duffy expressed support and questioned the length of time e.g. this year or the length of the war. Commissioner D'Aprile stated at least for the length of time they are away from home and indicated confidence in finding a solution. Commissioner Cummings questioned if the focus will be on Reservists or full time active military. Commissioner D'Aprile stated the number of impacted military personnel needs to be determined and brought back with tax roll impacts as a reduction in ad valorem taxes. Commissioner D'Aprile advised the individuals must be homeowners who pay ad valorem taxes in Charlotte County. Chairman Loftus expressed support of the Troops but he is concerned about opening up Pandora's Box.

**Motion Carried 5:0.**

(5) Community Development - RECOMMENDED ACTION: Approve scheduling a Special Board of County Commissioners meeting on April 26, 2007 for discussion of EAR and other backlogged items. April 27, 2007 will be reserved in the event that extra time is needed.

Mr. Loucks stated the hearings will be for the EARs and backlogged land use petitions on April 26 and April 27, 2007, if necessary.

**COMMISSIONER D'APRILE MOVED TO APPROVE SETTING A SPECIAL MEETING FOR APRIL 26, 2007 FOR DISCUSSION OF THE EARS AND BACKLOGGED LAND USE PETITIONS AND CONTINUING ON APRIL 27, 2007, IF NECESSARY, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 5:0.

VI. PUBLIC HEARING AGENDA - No Items

VII. PRESENTATION AGENDA - No Items

VIII. PUBLIC WORKSHOP AGENDA - No Items

IX. BOARD WORKSHOP AGENDA - No Items

X. CITIZEN INPUT - ANY SUBJECT

Joe Dixon stated Board Members are welcome to their jobs; requested the Board reconsider a decision made by **Commissioner Cummings** that it would be inappropriate to use Room 119 for Town Hall Meetings of the Curmudgeon Club, the decision was unfair, and **Commissioner Cummings** is upset with the Club. **Chairman Loftus** advised no personal attacks are allowed and if they continued, a Deputy Sheriff is present to escort you out. Mr. Dixon requested the meeting be allowed as scheduled.

Clarke Keller offered his services as a professional taxpayer with regard to the TDU ordinance, he understands the linkage of High Density Coastal Development versus taxes, infrastructure, water quality, and fish populations; referenced Tranquility Island that was recently changed to a Receiving Zone and read Section 3-5-449(a) from the TDU ordinance about changing a Sending Zone to a Receiving Zone; the Board has approved all of the TDU appeals filed since the enactment of the ordinance; and Round Tables are for everyone to have a voice and the Board has missed the point since no public input will be allowed.

Steven Brown, a representative of the Conservancy of Southwest Florida, read from the letter co-authored with the 1000 Friends, on the TDU ordinance including Sending and Receiving Zones and the TDU Program, and offered to speak with Board Members and staff on management of the TDU Program.

Sue Reske, Greater Charlotte Harbor Group Chairman of the Sierra Club, commended the Board for trying to understand and resolve issues regarding the TDU ordinance; expressed confusion on why the workshop was changed at the last minute to a Round Table

and the inaccuracy of the agenda regarding this change and the impression it gives the public; why limit public comment on this topic; quoted the Attorney General's Government in a Sunshine Manual, pages 68 and 63; read from the Board's December 19, 2006 action dealing with the Wildflower Golf Course; and suggested the Board give the public advance notice and when the public is allowed input.

Ruth Bromberg, Sierra Club Political Chairman, commended the Board on recognizing the need for a meeting on the TDU ordinance; last minute changes to Board agendas that have already been posted to the website deny people their rights of public input and participation; one person was allowed to speak during the first Citizen's Input on the TDU ordinance; other individuals will be back this afternoon anticipating to be allowed to speak; the Comprehensive Plan and the TDU Program belong to everyone; expressed support for reasonable development but not waiver of TDUs at a cost of \$30,000 per unit to taxpayers; requested Board Members to remember everyone at the next TDU appeal hearing.

Percy Medintz read from a statement encouraging the Board to maintain and strengthen the TDU ordinance to prevent transfers to Coastal High Hazard areas in West County including the Placida Road area that is the sole evacuation route from the Cape Haze Peninsula; and distributed copies of the statement and the March 12, 2007 letter to the Board from the Cape Haze Property Owners Association (CHPOA).

Marvin Medintz, CHPOA President, expressed concern that the coastal properties not being protected; referenced a Board action that transferred 400 density units to a parcel that had zero units in contravention of the TDU ordinance; many CHPOA and other Association members will be present at this afternoon's meeting; and asked that private individuals at the Round Table indicate who they represent.

**Commissioner Duffy** pointed out the Noon hour and the remaining items on the agenda. **Chairman Loftus** suggested moving the 1:00 Round Table back. **Commissioner Moore** said Board Members may not get lunch and the meeting continued.

Randy LaSalle appeared on behalf of her husband and herself as new residents to the Rotonda area; requested Board Members to think for future generations and for the best interest of all people in the community for preservation and growth; the TDU ordinance was designed to protect Coastal High Hazard Areas in conjunction with the Comprehensive Plan; and requested disclosure of TDU waivers in the last year and their cost to the community.

Clyde Prier expressed concern about the Board limiting the use of Room 119 that has been used by the Curmudgeon Club, League of Women Voters, and other groups; seemingly access is to be limited to only groups approved by the Board; this facility was paid for with taxpayer dollars and everyone should have the use of it; the Curmudgeons were offered an alternative but it is inappropriate; and requested the Board to reconsider today.

Gail Giles commented on the need to protect the Cape Haze Peninsula from transfers of additional density units; a 1992 area wide survey reflected 77,000 at build out on the Peninsula; and Placida Road and Winchester Boulevard run into River Road for evacuation purposes.

Dave Steeles, a Curmudgeon Club member, commented on the unfair proposed band on the use of Room 119, opined each use should be determined on a case-by-case basis, the criteria for determining the use should be based on the good for Charlotte County, and legitimate Town Hall meetings comply with that criteria.

Misty Nichols, Gasparilla Island Conservation and Improvement Association Executive Director and sixth generation Charlotte Harbor resident, commended Board Members on the work they do for the County and expressed health and public safety concerns on additional development and transfers of density into the Cape Haze and Gasparilla Island areas.

Joan Fischer stated she was one of 200 people who attended the last Town Hall meeting held by the Curmudgeons and, hopefully, the Club will be allowed to hold meetings in Room 119. Ms. Fischer expressed her intent to attend the Round Table, recalled a developer recently was allowed to transfer 750 density units of 1,500 units instead of only 500 units on a parcel in Punta Gorda near the schools and Edison Community to the Burnt Store

Road area on a 4:1 vote, and requested the Board address this issue at the Round Table.

Debbie Highsmith advised representatives from environmental groups, civic associations, and others will be attending this afternoon and asked that the Board do the right thing.

AA. County Administrator

Mr. Loucks advised a Bill, going through the House, would require counties, cities, and exempt school boards to levy a millage which would generate tax revenues as derived in 2001 with a 3% CPI up to current years and the impact to the General Fund would be approximately \$80+ million. Mr. Loucks explained the entities might adopt a millage rate higher than that by a majority plus one vote, if such a millage rate is adopted by other than a majority plus one, the State would withhold sales tax revenues. Mr. Loucks mentioned the proposal to eliminate taxes on homestead properties to be replaced by increased sales taxes for which there may be a State-wide referendum November 3, 2007.

BB. County Attorney

County Attorney Knowlton commented on the North Port Orange Hammock Improvement District Bill relating to the Development of Regional Impact (DRI) for the Isles of Athena, located northeast of I-75 between Toledo Blade Boulevard and Kings Highway comprised of 15,000 residential units and 4.2 million square feet of commercial; as a result of a meeting yesterday between staff and representatives of North Port, staff is recommending that language concerning eminent domain remain in the Bill, as was done with the Babcock Development District, to condemn property outside of the District after approval by the Board by resolution, more coordination is necessary regarding concurrency of infrastructure, provide a non-voting seat on the Board of Supervisors for Charlotte County, and requested approval to relay the concerns to the City representatives. **Chairman Loftus** announced consensus of the Board. Attorney Knowlton stated there has not been a change in policy on the use of Room 119; it is a government center not a public auditorium or meeting room and it is not rented out; a consistent, non-discriminatory uniform policy is needed; the Curmudgeon Club

was allowed to use the room in January and has requested that the April, and possibly future meetings, be held in Room 119; pointed out the room would have to be opened up for all groups; and if so, the Board needs to be prepared for ramifications. **Chairman Loftus** stated there was consensus to adhere to the policy. **Commissioner Moore** concluded the consensus on the policy is to allow the use of Room 119 for governmental functions e.g. meetings for MSBUs, Advisory Committees, and the League of Women Voters. **Commissioner Moore** indicated no objection to allowing the Curmudgeon Club to hold one more meeting in Room 119. **Commissioner Duffy** concurred on allowing the Club to holding the April meeting in Room 119 since the Beach Complex is not available. **Commissioner D'Aprile** stated the people are part of the government and he will go along with the majority. **Commissioner Cummings** agreed with Attorney Knowlton, his concerns were not related to the Club but the impact on the long-term policy and the perception of endorsing the Club, Room 119 is used a lot, and the policy should be upheld. **Chairman Loftus** announced consensus to allow the Curmudgeon Club to use Room 119 for the meeting as scheduled in April.

#### CC. Commissioner Comments

**Commissioner Cummings** reported at a prior Water Authority meeting, he had brought up the need to address regional water needs, it was decided that staff would pursue it, instead of that being pursued, the Authority staff brought back a different proposal to fund the Punta Gorda/Peace River pipeline that would cost Charlotte County ratepayers over \$5 million over the term of the loan; the County does not have any intention of using that pipeline; this is the first pipeline in a list of projects compiled by the Authority and comprised of over \$300 million worth of pipelines, most of which will not be in Charlotte County but Sarasota and Manatee Counties; another proposal was made for \$1.7 million but still Charlotte County would not be using that pipeline; the contract says that Charlotte County is to pay its fair share of costs for which benefits are received; Chairman Staub made a comment at the last Authority meeting that payment of the \$5 million could be forced on Charlotte County over objections with a 3:1 vote but Commissioner von Hahmann came to the rescue; the point is this is contrary to the contract language e.g. should the Authority on a 3:1 impose the

payment, Charlotte County would have a very strong legal case; and requested input on the strength of the Board's will to file suit, if necessary, prior to the next Authority meeting e.g. the first Wednesday in April. **Chairman Loftus** suggested the third meeting in March. Mr. Loucks offered to place the item on an agenda. **Commissioner Moore** suggested either the Land Use on March 20 or the Regular Meeting on March 27, 2007. **Commissioner Cummings** concurred with March 27, 2007.

**Commissioner Duffy** stated Fish & Wildlife has control regarding the scrub jay process; the situation is appalling to County property owners; and suggested the Board adopt a resolution to make Federal legislators more aware and encourage citizens to contact Congressmen and Senators. **Commissioner Moore** suggested, as a result of a meeting with the Board of Realtors in West County, that a letter be sent to the Federal Legislative Group for assistance. **Commissioner Duffy** stated the Round Table discussions were initiated as a positive thing and the number of complaints are unfounded; Board Members sought a forum to increase the knowledge base and enhance communications; there was no intention of leaving out the public; and the public has many other avenues to contact Board Members and air concerns. **Chairman Loftus** reiterated Round Table discussions were scheduled to achieve better communication between the Board and staff, no decisions will be made at the Round Table on the TDU Ordinance, and the Burnt Store Road issue will be addressed at the next Land Use Public Hearings. **Chairman Loftus** brought up two issues to be placed on a subsequent agenda: La Quinta Inn & Suites has requested not to pay the new impact fees for the new motel but to pay the previous impact fees effective at the time of the filing of the Development Review Committee (DRC) application and Dr. Asperilla has requested a transfer of impact fee credits from the Village Inn to the new building. Mr. Loucks stated they are completely different issues; the County complied with all public hearing requirements and notifications for the impact fee ordinance revisions and the Board will need to make a judgment call whereas the request from Dr. Asperilla will require a policy decision and an ordinance change since no impact fees were paid in the 1970s when the Village Inn was constructed which might have far reaching impacts on collections of impact fees. **Chairman Loftus** requested the time frame for staff to bring back the information concerning Dr. Asperilla's request. Mr. Loucks advised for the March 27, 2007 meeting.

**Chairman Loftus** asked for consensus on the LaQuinta Inn request. **Commissioner D'Aprile** related La Quinita Inn does not get local information from the newspapers, Charlotte County Utilities notified La Quinta Inn by mail of increased fees, the Inn paid the fees prior to the increase; the Inn is willing to pay the impact fees; and expressed support for negotiating an amount higher than the original impact fees but lower than the most recent impact fees. **Commissioner Moore** expressed a preference to discuss this issue at the Land Use Public Hearings or the March 27, 2007 Regular Meeting. Attorney Knowlton requested if there is a reason not to wait until March 27, 2007. **Chairman Loftus** said no. Attorney Knowlton recommended March 27, 2007. **Commissioner Moore** commented in support of placing both items on the March 27, 2007 agenda.

**ADJOURNED: 12:40 PM**

Signature on file in Commission Minutes  
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**

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