

BOARD OF COUNTY COMMISSIONERS

MAY 1, 2007

A roundtable 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 Loftus, Commissioner Duffy, Commissioner Cummings, Commissioner D'Aprile, and Commissioner Moore. Also in attendance were Assistant County Administrator Baltz, Deputy County Attorney Gallagher, 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.

I. Review of Regional Growth Management Meeting (held on April 30, 2007)

Mr. Konefal stated that the elected officials from Sarasota, Charlotte, Manatee and DeSoto Counties met in Sarasota County on April 30, 2007 for a meeting dealing with growth management issues, and that he would review the key aspects of that meeting; indicated that staff was available to discuss Senate Bill 360, mining, code update, and DRI's; and asked the Board which of those topics they wished to cover. **Chairman Loftus** requested a review of Senate Bill 360, **Commissioner Duffy** requested an update on the mining issue, and **Commissioner Cummings** requested an update on the code.

Mr. Konefal stated that the handout in the Board packet listed 40-50 local and regional issues, and indicated it would be helpful for staff if the Board advised what issues are of specific interest or priorities to be brought back, and pointed out that four of the issues would be reviewed today.

Mr. Konefal summarized the condensed list that he believes to be Regional and County issues, worthy of updates and additional discussion.

Mr. Konefal provided an executive summary of the 2060 plan, and a slide presentation from the 1000 Friends of Florida, which indicates that Florida would double by the year 2060. **Commissioner Cummings** pointed out that much of the development reflected in the Florida map is contrary to state law.

Chairman Loftus questioned the Charlotte County population in 2060. Mr. Konefal stated that the executive summary points out that the population for Southwest Florida, which includes Charlotte, Lee and Collier Counties, is heavily urbanized, and a concern for future review. **Chairman Loftus** commented on consideration of an increase in building heights and density in certain areas.

Mr. Konefal recalled a special workshop about a year ago on height and density; that some areas were targeted, the first of which was Charlotte Harbor, and that it was still on the task list. **Commissioner D'Aprile** reported that the areas considered at the time was Charlotte Harbor CRA, Murdock Village, and Babcock Ranch. Mr. Konefal explained that in Charlotte Harbor the height went up to 90', but indicated that the higher you go you must give up more open space, or green space.

Commissioner Duffy asked how many stories 90' would be. **Commissioner Moore** indicated it would be 9 stories. Mr. Konefal advised that the current limit is 60', but opined the highest current building is 40' or 45'. **Commissioner D'Aprile** stated that only a few exceptions were allowed to go to 90', and that while he is not in favor of high buildings, he is willing to discuss it.

Commissioner D'Aprile stated that all of the items listed are important, and that the Board and staff should continue the communication to find solutions, beginning with the most important; and indicated that hurricane evacuation and roads affect all the surrounding counties and should be looked at carefully.

Commissioner Cummings agreed that taller buildings should be considered under certain conditions, and perhaps treated like an intensive use.

Commissioner Cummings stated it is hard to say there are items that should or should not be addressed; opined that the Board should be looking at build out scenarios, the neighborhood plans, innovative comprehensive planning approaches, and tiered impact fees.

Commissioner Moore pointed out that the main purpose of today's meeting was to talk about the scrub jays, not issues the Board has previously reviewed, although they are very important, and expressed concern in having the guests delayed in their presentations. **Commissioner D'Aprile** explained that this was to be a quick overview of yesterday's meeting because that meeting was not televised. It was the consensus of the Board to continue in the present order, but remain brief.

Mr. Konefal provided a slide presentation of maps that reflect the interconnectivity of regional greenways, and how the Water Management Districts, Department of Transportation Districts, and Regional Planning Council Districts, criss-cross one another, which he opined should be reviewed on a regional level to be certain they meet regional needs, opposed to needs from the past, and a Land Use composite map of the entire region showing commercial (red), residential (yellow), and state parks (neon green.) **Chairman Loftus** asked that a copy of the map be furnished to each Commissioner.

Commissioner Duffy questioned what region we would want to partner with, and inquired if Lee and Collier Counties should be invited to the next meeting. **Commissioner Cummings** explained that in the end we are partners with both regions. **Chairman Loftus** said he would like to see Lee and Collier Counties at the table also. Mr. Konefal stated that he expects all will eventually be one region. **Commissioner Cummings** indicated that the Regional Planning Council should be more closely affiliated with the group.

Commissioner Duffy commented on private partnerships; agreed that there is more power as a region, rather than as individual counties; and stated that she doesn't want to see it become another layer of bureaucracy. **Chairman Loftus** agreed. **Commissioner Moore** stated that they have no authority. **Commissioner Cummings** indicated that they have influence, but no authority.

James Fendrick advised that Senate Bill 360 is a new Bill approved in 04/05; that it is not a new law, but a new set of penalties for old laws, attempting to implement the 1985 growth management legislation; that it provided new teeth for old growth management tools that the State had established, which are that

no future land use changes would be allowed if we do not comply with the different laws, and potential loss of state-shared revenues. Mr. Fendrick stated that the goal of Senate Bill 360 is to insure that communities provide a quality and quantity of service promised to the citizens.

Mr. Fendrick indicated that the seven areas of concurrency are roads, which can include transit as a community develops, parks and open space, potable water, sanitary sewer, solid waste, storm drainage, and schools. Mr. Fendrick reviewed the landmarks set by the legislature and the solutions available to accomplish the legislation. Mr. Fendrick stated that we have a deadline of December 1, 2007, to turn the results into the State, and if the deadlines are missed, penalties of not allowing development to go forward in the county and possible loss of state-shared revenues would be assessed.

Commissioner Cummings commented on exceptions and how they are dealt with. Mr. Fendrick indicated there may come a time that a multi-model solution is needed; stated there is a menu of solutions, and a good workshop topic for Public Works to come back with solutions, whys, and how; and pointed out that they will have to provide a viable alternative this year with that menu of solutions, unless the legislation is extended by one year.

Commissioner Cummings stated that there must be a means of dealing with a road level of service that fails no matter what you do. Mr. Fendrick said that is a Multi Model Concurrency Area (MMCA); that you must first try to fix things and provide temporary relief; but that if all other options are exhausted and it is still failing, then there are metropolitan-type solutions.

Commissioner Moore inquired if there is a way Charlotte County will not fail in road concurrency, because the funds needed are not available. Mr. Fendrick said he does not know where legislation is going, but with what we know today, there are tools to help fix roadways; that he thinks we can comply with the law and meet the requirements now, but not certain about long-term, and pointed out there are long-term management solutions. **Commissioner Moore** indicated he needs further communication on with Mr. Fendrick at a later time to discuss this. **Commissioner Cummings** commented on creating mass transit. Mr. Fendrick stated

that by the June 2007 Workshop there should be an idea of what the options will be, and indicated that the departments have an internal deadline of the middle of May 2007. **Commissioner Cummings** opined that the State has put the counties in an impossible box.

Commissioner D'Aprile pointed out that Senate Bill 360 is not something that Charlotte County will benefit by because of the many mandates given by the State to the local counties; opined that we need to concentrate on roads from West to East to accommodate for hurricane evacuation; and stated that he would like to find a simple solution to these problems.

Commissioner Cummings stated that the concept behind Senate Bill 360 is a good one, but that innovative options to fund it have not been allowed; and indicated that the State shifted expenses, but did not shift revenues. **Commissioner Cummings** explained that he does not want to misimpression that we should not maintain our standards; and opined that the people who live here now should not have to pay for new growth, that they should be able to maintain their quality of life and continue to pay their fair share for the provision of services and infrastructure.

Nicole Dozier provided an update on the redraft of the land development regulations (LDR's), and advised a draft of the Best Practices Report prepared by the consultant will be provided to the Commissioners and advisory groups.

Commissioner Cummings inquired if the changes being looked at include changes that would allow for estate-type development to occur with fewer impacts. Ms. Dozier replied that the consultant would be giving suggestions on development procedures and processes in the report. **Commissioner Cummings** indicated he likes the idea of clustering, but with conditions; opined there would continue to be a lot of estate-type developments; and commented on levels of impact he believes should be addressed.

James W. Dossett reported that staff formed a panel and an 11-step process to review the excavation ordinance (dirt mining); that staff has attempted to address and adjust the laundry list of concerns received from the Board and citizens; reviewed changes, and items that were not able to be

addressed; and stated that a final draft should be ready for review soon.

Mr. Dossett stated that progress was made on traffic characteristics, but that level of service could not be addressed yet because of the way Public Works defines the level of service; and pointed out that considerable progress was made on the group 4, which should help the farmers.

Commissioner D'Aprile asked how many active mines Charlotte County had. Mr. Dossett stated there are 23 active mines and just under 3 dozen new requests. **Commissioner D'Aprile** asked if those requesting permits agreed with the new laws, and if they were mostly group 3 permit requests. Mr. Dossett said most were group 3 permit requests, and that the cost was not a factor. **Commissioner D'Aprile** stated he has no problem with mining that exists now, but expressed concern with new mining, and indicated that Charlotte County is supporting other counties by allowing this.

Commissioner D'Aprile commented on TDU's, and stated he would spear-head this issue that anyone who digs on their property should not have the right to use the hole as a means of transfer of development units. **Chairman Loftus** stated this issue would be addressed in the TDU ordinance. **Commissioner Duffy** agreed with **Commissioner D'Aprile**.

Commissioner Duffy inquired if any of the new permits were FARMS permits. Mr. Dossett indicated that perhaps 3 with smaller acreage were, but that the majority of the permits are from 200 to 1200 acre requests. **Commissioner Duffy** indicated that she has received inquiries by owners of what can be done with their land in order to provide an income, because of the county restrictions and other difficulties they have experienced.

Commissioner Cummings questioned the number of mining permit requests that have come in since the Board's discussion to have a moratorium; and inquired about the design standard changes in classes 1 through 3. Mr. Dossett explained the changes.

Commissioner Cummings commented on class 4 excavation and instances where he would consider TDU's, and indicated that level of service based upon trucks going in and out must be addressed,

both from traffic impacts and a maintenance standpoint. Mr. Dossett advised that this something that would be taken to Nicole Dozier as part of the re-write of the land development regulations for better definition of level of service.

A. Gopher Tortoise Management Plan

Stephanie Rousso, Florida Fish and Wildlife Conservation Commission

Andy Stevens, Natural Resources Division

1. Up-listing the Gopher Tortoise to threatened status
2. Current permitting regulations
3. Possible future permitting regulations
4. Development Review

Andy Stevens advised that the gopher tortoise has been listed as a species of special concern for the last twenty five years; that there has been a decline in the overall population of gopher tortoise; and explained the difference between species of special concern, threatened, and endangered species.

Mr. Stevens indicated that one of the present permitting conditions allows incidental take, which means a nominal fee is paid today and the tortoise is entombed, but that given the management plan and the tortoise's current status going to threatened, the choices would be onsite, or offsite, relocation; and advised that through the management plan, the State is attempting to certify recipient sites on private and public lands. **Commissioner Cummings** inquired if those areas would be a concern for disease. Mr. Stevens commented on diseases that have been removed; indicated that from additional research biologists believe that lack of management of the areas is a cause of the major decline, not the upper respiratory tract disease that has previously been of concern; and advised that there is a draft management plan for the gopher tortoise to be a status of threatened.

Stephanie Rousso, a wildlife biologist in the Habitat Conservation and Scientific Services Section of the Florida Fish and Wildlife Conservation Commission, Punta Gorda office, reported that a committee is presently working on a review of the

management plan, that there is a public workshop scheduled on May 24, 2007, and a stake-holder meeting scheduled on May 25, 2007, in Gainesville, Florida. Ms. Rousso stated that when a species is listed as threatened a management plan is usually warranted by State law for that listing. Ms. Rousso advised that incidental take permits would be available, but only for emergency situations, that most will be for relocation, and that the cost for the relocation permits would be adjusted based upon relocation area; that the cost would be higher if onsite, unprotected land or private land, and less if going to mitigation park or conservation easement. Ms. Rousso explained that there would still be more options for developers than in the past because blood testing is no longer mandatory and the relocation radius has been expanded.

Commissioner Cummings inquired if there were problems with the tortoise trying to return to its original location. Ms. Rousso replied affirmatively, and stated that the management plan is designed to monitor the relocation of recipient sites, that of most concern is relocating to an area where there are no gopher tortoise already, and that there is a limit to the number of tortoise allowed per acre (carrying capacity.) Mr. Stevens explained that part of the management plan would certify potential recipient sites, and require the property be put into proper condition to accept tortoise.

Commissioner D'Aprile inquired why the U.S. status on the gopher tortoise is shown as "None in Florida" in the literature received. Mr. Stevens explained that the gopher tortoise is protected by the Florida Fish and Wildlife Conservation Commission (State), not the U.S. Fish and Wildlife Service in Florida (Federal), and is getting to a threatened status. **Commissioner D'Aprile** inquired if we should expect the gopher tortoise to present problems such as the scrub jays have in this community, or is there a different management plan. Mr. Stevens said it could pose a problem for development.

Commissioner Cummings inquired if the mitigation area must be within a certain radius. Mr. Stevens stated it was a radius of 100 miles. Mr. Stevens said the fees have gone up significantly, that the funds would go into a land acquisition funding source to buy and manage property, but that city and county governments would be looked at for potential recipient sites. **Commissioner**

Moore inquired if the funding would be county-specific. Ms. Rousso stated she did not know, but would find out. **Commissioner Cummings** inquired if we are likely to find ourselves in the situation, not unlike the scrub jays where you have some type of mitigation requirement, to pay enough to purchase some volume of land in order to provide habitat corridors that just move the tortoise for a nominal fee. Mr. Stevens stated that a recipient site could be found, or pay into the land acquisition fund, and indicated that there would be some land acquisition involved.

Mr. Stevens commented on property owners providing buffers, or relocating and paying a fee; indicated that leaving a section of the owner's land for the habitat is encouraged; and pointed out that this is just an overview of what is to come. Ms. Rousso advised that no relocation permit is required for 5 or fewer gopher tortoise.

Chairman Loftus inquired if there was consideration on the issue of the gopher tortoise for relocation in the environmental land acquisition program, and stated that if not, it should be added to the criteria. Mr. Stevens said it has not been discussed, and indicated that there is language in the ordinance that would allow some mitigation to be done on the disturbed areas, so it may not be appropriate for relocation. **Commissioner Cummings** stated he does not want a repeat of what happened with the scrub jay issue, and opined that if something needs to be done to develop a management plan it should be done correctly at the front end.

Commissioner Moore requested clarification that if a property owner with 5 or fewer gopher tortoise on their property do not need a relocation permit. Ms. Rousso corrected her earlier comment and stated that a relocation permit is required, but that the land owner can move the tortoise to another area of open space; that it does not have to go to a conservation easement.

Commissioner Cummings opined that the County should have a comprehensive approach before going into this, and that if there is a land acquisition, see if it fits into the other growth management policies and take advantage of the upside.

Ms. Rousso offered to work with staff on alternatives and solutions before the management plan is set into stone.

RECESS: 10:30 AM - 10:40 AM

II. Listed Species and Protection Measures

B. Scrub-jays

Spencer Simon, United State Fish and Wildlife Service

Andy Stevens, Natural Resources Division

1. Habitat Conservation Planning
2. HCP Developments
3. Scrub-jay Issues

Andy Stevens introduced Spencer Simon of the U.S. Fish and Wildlife Service (USFWS.) Mr. Simon advised that he is a Supervisory Fish and Wildlife Biologist, and introduced George Dennis, USFWS Conservation Banking Coordinator, and Trish Adams, USFWS Habitat Conservation Planning Coordinator.

Mr. Simon stated that in the early 90's a letter was issued to county governments advising responsibilities for permits issued in areas where listed species occurred, and that the activity could result in harm to listed species. Mr. Simon advised that the Florida scrub-jay is listed as threatened under the Endangered Species Act and the Florida Administrative Code; that it is a native species, very territorial, and sedentary. Mr. Simon indicated that Charlotte County has an abundance of scrub-jays, about 420, and about 135 family groups, which are important not only to Charlotte County, but to the survival of the species state-wide.

Mr. Simon advised that his comments would be on how we got to where we are with the scrub-jay in Charlotte County, the challenges and difficulties of conserving scrub-jays in the urban landscape, some of the steps the Fish and Wildlife Services have taken to improve the situation in Florida, and in Charlotte County particularly, and the importance of developing a countywide conservation plan for scrub-jays.

Mr. Simon indicated a map showing environmental encumbrances was prepared based upon studies done, explained the zones, and

reported that this caused stress, difficulty, and outrage in the citizenry of Charlotte County. Mr. Simon stated that a person can develop their property that is occupied with a listed species after obtaining an incidental take permit, and explained the lengthy process to obtain the permit.

Mr. Simon pointed out that Charlotte County has many individual lots, and that the process is slowed further because all of the documents must be developed for every person who wants a permit, and because of the limited resources that USFWS has.

Mr. Simon advised that the map was found to be inaccurate, and commented on the new system that was enacted. Mr. Simon stated he is pleased to see that Charlotte County adopted the approach; that this is a temporary fix; that Charlotte County still has a significant population of scrub-jays; and that there needs to be a comprehensive approach to address how to conserve the species for Charlotte County, and the State of Florida.

Mr. Simon commented on challenges being faced, and steps being taken to mitigate the challenges; indicated there needs to be a plan in place; and stated that large blocks of land need to be identified and protected.

Mr. Simon commented on the State-wide fund and how it works.

Mr. Simon said permits can now be developed at the field office level, but that the process might not be much quicker. Mr. Simon commented on conservation banking; advised that USFWS is trying to streamline and make things more efficient, but that there are still many concerns in Charlotte County; and indicated that the only way to determine if scrub-jays are present on property is to have a survey done at the time of development. Mr. Simon commented on remedies and advantages through the adoption of a countywide habitat conservation plan, and indicated that when the County's habitat conservation plan is certified, USFWS would not come back for additional mitigation.

Mr. Simon stated that USFWS has received mitigation funds in Charlotte County of approximately \$1 million for scrub-jay impacts and that approximately \$1 million more are in the books, and on the way; and pointed out that those funds can be spent outside Charlotte County.

Chairman Loftus inquired if there were Federal or State funds available to Charlotte County to help for mitigation. Mr. Simon advised that there were funds available for developing a countywide or comprehensive habitat conservation plan; that the Federal Government would not provide funding to mitigate, but would provide funding to buy land that would be complimentary to any plan that the County had; and opined that if a plan was in place, there would be opportunities to acquire that land.

Commissioner Cummings clarified that grant funding is for enhancement, not for any mitigation issues. Mr. Simon stated grant funding would not be for strict land acquisition for mitigation, but would be for the planning or development of the habitat conservation plan.

Commissioner Cummings asked how far the plan created in the past is from meeting the criteria for habitat conservation. Mr. Simon stated that the Capital Improvements Project was requested to be moved up to the solicitor's number 2 project, and hoped that a permit could be issued within a few months. **Commissioner Cummings** opined that the three components from a revenue standpoint for the habitat conservation plan that are important to the County are land acquisition monies, funding to mitigate for county projects, and private sector funding mitigating for private sector development. **Commissioner Cummings** inquired if the project being developed in East County could be incorporated into the plan. Mr. Simons asked if he was referring to the conservation bank. **Commissioner Cummings** replied affirmatively. Mr. Simon said he thought it would be a great opportunity.

Commissioner Cummings commented on a pilot project of relocating young scrub-jays to another area. Mr. Simon said some mining land has been successful, but stated he would like to see publications defending it scientifically.

Commissioner D'Aprile requested clarification of how red zones in Charlotte County could be eliminated, and Mr. Simon explained the procedure to be followed in order for USFWS to resolve the scrub-jay issues in the County, and commented on the difficulties experienced by scrub-jays in the Deep Creek area.

Commissioner D'Aprile agreed that a countywide habitat conservation plan should be established in Charlotte County, which would allow people to build on their properties, and indicated that it the simplest way to do this, and still protect the birds. Mr. Simon stated that the USFWS would support it and offer all of its resources available to help the County develop a plan.

Commissioner D'Aprile inquired how the County gets a conservation plan started. Mr. Stevens pointed out that no other county has a countywide plan, and that the only one in the works is Sarasota County. **Chairman Loftus** clarified that some funds would be available for developing the plan. Mr. Simon replied affirmatively, pointed out that this is a national grant program, and indicated that the USFWS would do all it could to help Charlotte County. Mr. Simon stated that there are no countywide conservation plans for scrub-jays, but advised that there have been several large scale conservation plans developed in other areas.

Commissioner Moore inquired about total cost, and perimeters. Mr. Simon did not know the cost involved, but explained the requirements to establish the perimeter.

Commissioner Moore reported that there are many areas of the county where the scrub-jay is dying and the sooner this is done, the better. Mr. Simon advised that habitat conservation planning allows for flexibility.

Commissioner Moore asked what happens if this is done incorporating some of the state lands. Mr. Simon said it is important to think about state-protected species, that the idea is to develop a plan that takes into account all of the species that Charlotte County is aware of having, and indicated that there might be opportunities as part of a countywide comprehensive plan to restore the state lands for the scrub-jays.

Commissioner Duffy requested the definition of a conservation plan. Mr. Simon said it is a document with key components describing what the plan is for, the level of impact to the listed species, a series of steps the county is willing to take to avoid or minimize the impact, and outline the assurances the County would take to mitigate the impact.

Commissioner Duffy clarified that Tippecanoe is an area that the County is working on as a scrub-jay habitat, and that a family in Punta Gorda is attempting to set up a "bank." Mr. Simon commented on the Ryals Project in Punta Gorda, and the importance of acquiring that land. **Commissioner Duffy** asked why the delay. Mr. Simon stated they are working hard to get conservation banks established, including those for the Florida Panther, but that because there is no track record, it has been difficult to get the projects approved through the regional solicitor's office, and indicated that it is important to be certain all the steps are being taken accurately.

Commissioner Cummings advised that the old plan the County did was close to acceptable, with perhaps an update of the map, and stated that for Charlotte County the issue is not whether or not a plan can be developed, but how to pay for it. **Commissioner Cummings** commented on the funding issues, and indicated that the previous plan could be updated.

Mr. Simon advised that it might be useful for the county to conduct an economic analysis, and indicated that the benefits usually far outweigh the costs.

Commissioner Cummings stated that the larger share of the cost is in land acquisition, and commented on where savings would be.

Mr. Simon said we need to think out of the box and find creative funding. **Chairman Loftus** explained that financing is of concern to the County, and indicated that some funding might be possible for the economic impact study. Mr. Simon advised there might be grant money available for the study.

Commissioner Duffy commented on persons feeding birds to prevent adjoining property owners from building on their property, and fly-over's, and inquired how often the areas are surveyed. Mr. Simon explained that USFWS supports back-yard wildlife with bird feeders in yards, but pointed out that targeting and feeding scrub-jays is illegal. Mr. Simon commented on fly-over's, indicated that in most fly-over instances, the bird is usually within its territory, and stated that if a piece of property is being proposed for development in an area where there

is evidence of scrub-jays, the only way to know for certain if the property is occupied is to have a qualified survey conducted.

Commissioner Duffy asked what happens if a person goes on the newly adopted system, and their property is not listed as being within the 850 buffer, but a staff member then sees a bird; and inquired how often staff should survey to determine if a person's property has become a scrub jay territory.

Mr. Simon explained that the details on the frequency of exchanging data and updating maps has not been firmly established and needs to be worked on, but has been discussed for a quarterly basis, and stated that there is a measure of responsibility for every land owner who is developing in an area where there is sensitive habitat to do a due diligence review. Mr. Simon commented on the safe harbor period after data is exchanged and building approval given

Chairman Loftus opined there was consensus for approval to see a plan move forward, and commented on the importance of the fiscal issue. Mr. Simon stated that he would get with State partners on assistance, and pointed out that the gopher tortoise could be incorporated into that plan. **Chairman Loftus** commented on timeframes for the grants. **Commissioner Cummings** stated he is interested in receiving funding for a multi species habitat conservation plan, but that possibly the scrub-jay plan could be done sooner by having the old plan updated and put into place, and including the funding for improving it as part of the multi species.

Commissioner Moore stated that the finances are of great importance. Mr. Simon indicated that the economic analysis should be done first.

Mr. Simon commented on Winchester Road and the Capital Improvements Project in West County, and advised that the project was moved up to the second priority on the solicitor's list. Assistant County Administrator Roger Baltz recalled a pre-dated countywide habitat conservation plan prepared approximately three years ago, that Real Estate Services did a cost estimate for acquiring property, which was multi millions of dollars, non-inclusive of any grants, and commented on the difficulties encountered at that time.

Paul Payette commented on the difficulties involved in purchasing property for scrub-jay mitigation in Charlotte County because of the heavily populated platted lots.

Commissioner Moore requested clarification that the Ryals "bank" project could assist mitigation for West County. Mr. Simon explained that there are separate populations in Charlotte County, that the conservation bank would have a service area, and that typically an effort is made for the mitigation to be in the mita population of the birds.

Mr. Dennis advised that the plan for the bank does not include commercial or capital improvement projects, was a compromise to help single-family residential lot owners, and would have to be considered on a case-by-case basis. Mr. Dennis stated that if there are no affordable lands available in the Cape Haze Peninsula to acquire for conservation, we would have to look elsewhere, which may be East County. **Commissioner Moore** opined that could be terribly important down the road because it takes away the eminent domain issue and may allow something to be accomplished that has become cost-prohibitive. Mr. Dennis pointed out that if nothing is done, the citizens would still be required to pay into a fund, which could be spent outside the County; indicated that in a comprehensive plan the cost per citizen would be lower than what they would have to pay to the fund, and opined that a comprehensive plan would be more beneficial.

Chairman Loftus recalled that the previous mitigation was \$35 million before costs went up, indicated that Charlotte County has so many scrub-jays, and he hopes it can get State and Federal funding assistance.

Commissioner Duffy inquired if the Conservation Charlotte program could help with the purchase of lands for mitigation. Mr. Stevens explained that Conservation Charlotte as written in the ordinance is for all types of habitat, not just scrub-jay; indicated that some scrub-jay habitat was nominated, and that his understanding is that if it is managed correctly and "grow birds", that it would count toward mitigation responsibility. Mr. Simon said that was correct, and reiterated the importance of considering all options and opportunities,

reminding the Board that scrub-jays and gopher tortoise can use the same lands.

Commissioner Cummings stated that scrub-jays use a lot of the same habitat as many of the threatened, endangered or species of special concern; pointed out that because it is Federal Endangered Species Act, the cost is going to be paid irrespective of whether or not it is done through the County, or paid directly to the Federal Government, and possibly go elsewhere in the State to preserve the habitat; and commented on the use of Conservation Charlotte funds for mitigations.

Chairman Loftus indicated these issues could be worked out in a workshop.

Commissioner Duffy reported that the USFWS speakers would meet with a group of Charlotte County realtors this afternoon. Mr. Stevens advised that County Administration requested that he speak to the Board at an upcoming Roundtable Session on a manatee protection plan. **Commissioner Moore** stated that he does not think Conservation Charlotte funds can be used in this application, but he is willing to discuss it in a workshop. **Commissioner Cummings** stated that when the manatee issue comes back, that because of the effects of the red tide on manatees, he hopes the USFWS could be of some assistance in allowing us to deal with the fertilizer issue, and help give us the discretion to better manage runoff into the estuary.

ADJOURNED: 12:02 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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