

BOARD OF COUNTY COMMISSIONERS

MAY 22, 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 Administrator Loucks, County Attorney Knowlton, Finance Director Navan, Administrative Assistant Stoner, and Deputy Clerk Manley. The following members were absent: None.

The meeting was called to order at 9:00 AM.

The invocation was given by Chairman Loftus, followed by the Pledge of Allegiance.

Changes to the Agenda:

Addition #1: Z-3 - Requested by County Attorney: RECOMMENDED ACTION: Accept the letter of notification from the Charlotte County Airport Authority of the abandonment of the Charlotte County Airport Development of Regional Impact Development Order pursuant to Section 163.3177(6)(k), Florida Statutes. BUDGETED ACTION. None

Change #1: R-1 is moved to Z-4 - Requested by County Attorney - Revised Resolution and Emergency Ordinance - RECOMMENDED ACTION: Approve a Revised Resolution and an Emergency Ordinance declaring a temporary state of local emergency due to extreme drought conditions and prohibiting the use of open burning and the use of or the sale of fireworks.

COMMISSIONER MOORE MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER D'APRILE.  
Motion Carried 5:0.

Special Recognition

Proclamations - Chairman Loftus

Babcock Ranch Preserve, the Artist for Critical Lands

COMMISSIONER CUMMINGS MOVED TO APPROVE BABCOCK RANCH PRESERVE, THE ARTIST FOR CRITICAL LANDS PROCLAMATION, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

The Proclamation was accepted by Jim Cawthard.

Edward "Ed" Stepp Day

COMMISSIONER MOORE MOVED TO APPROVE EDWARD "ED" STEPP DAY PROCLAMATION FOR MAY 22, 2007, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

The Proclamation was accepted by Fire Chief Dennis DiDio on behalf of Ed Stepp.

Pre-Veterans Memorial Day

COMMISSIONER D'APRILE MOVED TO APPROVE PRE-VETERANS MEMORIAL DAY PROCLAMATION FOR SUNDAY, MAY 27, 2007, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

The Proclamation was accepted by Jerry Faught.

Race Unity Week in Charlotte County

COMMISSIONER MOORE MOVED TO APPROVE RACE UNITY WEEK IN CHARLOTTE COUNTY PROCLAMATION FOR THE WEEK OF JUNE 10, 2007 THROUGH JUNE 16, 2007, SECONDED BY COMMISSIONER DUFFY.

Motion Carried 5:0.

The Proclamation was accepted by Albert Sensley.

Employee Recognition - None

Chairman Loftus acknowledged receipt of a plaque from the United Way of Charlotte County on behalf of Charlotte County Employees in appreciation of their support and donations.

Award Presentations - Chairman Loftus

Presentation of a plaque to the Board of County Commissioners by the Civil Air Patrol

**Chairman Loftus** accepted a plaque presented by Earle Bretz to the Board of County Commissioners for its continued efforts on behalf of the Civil Air Patrol.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Bill Vaeretti spoke in opposition of agenda item Z-4.

Ada Briden spoke in opposition of agenda item Z-4.

Kristina Briden spoke in opposition of agenda item Z-4.

II. COMMITTEE VACANCIES

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

Burnt Store Village Street & Drainage Unit Advisory Board - seeking six volunteers; five regular members and one alternate member. The terms for the regular members shall be determined at the first committee meeting. The alternate member shall serve a two year term. Volunteers must be residents of the Burnt Store Village Street & Drainage Unit.

Construction Board of Adjustments and Appeals is seeking one member to serve as an Alternate member on this Board. Committee meets on the first and third Monday of the month in Murdock.

Construction Industry Licensing Board - seeking a volunteer representing the "consumer advocate" category. Volunteer must be a resident of Charlotte County for at least two years and have no financial interest, direct or indirect, in the building trades. Length of term is four years.

South Burnt Store Street & Drainage Unit Advisory Board - seeking six volunteers; five regular members and one alternate member. The terms for the regular members shall be determined at the first committee meeting. The alternate member shall serve a

two year term. Volunteers must be residents of the South Burnt Store Street & Drainage Unit.

South Gulf Cove Advisory Committee (Community Plan) - seeking one volunteer to fill a vacated position on the committee. The term shall be for three years. Volunteer must be landowner within the boundaries of the Unit.

III. REPORTS RECEIVED AND FILED

2006 Annual Reports for the Murdock Village Community Redevelopment Agency and the Charlotte County Community Redevelopment Agency.

IV. CONSENT AGENDA

COMMISSIONER CUMMINGS MOVED TO APPROVE CONSENT AGENDA, SECONDED BY COMMISSIONER D'APRILE.  
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 Disbursements for the period May 1, 2007 through May 14, 2007 in the amount of \$15,249,180.03

B. Minutes Division

(1) RECOMMENDED ACTION: BUDGETED ACTION: None

04/17/07 1:30 p.m. Strategic Planning Meeting

04/24/07 9:00 a.m. Board of County Commissioners Regular Meeting

04/26/07 9:00 a.m. Land Use Hearings

05/01/07 9:00 a.m. Roundtable Meeting

05/07/07 2:00 a.m. Joint Mtg./BCC/School Board/City of Punta Gorda

05/08/07 9:00 a.m. Board of County Commissioners Regular Meeting

Board of County Commissioners

C. Commission Office

(1) RECOMMENDED ACTION: Approve to reappoint Ann Dever to the Parks and Recreation Advisory Board. Her current term expired May 11, 2007, and she is requesting to be reappointed. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve the appointment of Mr. Tony Inabnitt as the General Building Contractor representative to the Construction Board of Adjustments and Appeals (CBAA), for a three-year term. Mr. Inabnitt is currently serving as an Alternate member on this committee and wishes to be appointed to the vacancy created by Mr. Joe Celico who did not wish to be reappointed. Mr. Inabnitt meets all criteria for this position and his letter is attached. BUDGETED ACTION: None

D. Administration - No Items.

E. County Attorney

(1) RECOMMENDED ACTION: Set an Executive Session for May 22, 2007 at 11:00 a.m., or as soon thereafter, in the County Attorney's Office Conference Room to discuss phosphate - Ona Mine and global settlement strategy. BUDGETED ACTION: None

F. Budget Office

(1) RECOMMENDED ACTION: Request the BCC to schedule a workshop for the presentation of the 2007/2008 Capital Improvements Program (CIP) on Friday, July 13, 2007 at 9:00 A.M. at the Murdock Administration Center, Room #119. BUDGETED ACTION: None

(2) *RECOMMENDED ACTION: Approve to mail the required first-class notification of proposed Municipal Service Benefit Unit (MSBU) assessment rates for FY07/08 for those units with a proposed rate increase above the previously established maximum rate. BUDGETED ACTION: None*

(3) *RECOMMENDED ACTION: Approve to set a Budget Review Workshop in Room B106 at the Charlotte County Administration Center, 18500 Murdock Circle, from May 29, 2007 until date needed for completion. BUDGETED ACTION: None*

G. Community Development

(1) *RECOMMENDED ACTION: Approve the DRC-PD-80-4TTT Partial Final Detail Plan Resolution permitting Paul R. Schelm, Jr. to develop Schelm Memorial Center. BUDGETED ACTION: None*

**Resolution 2007-073**

(2) *RECOMMENDED ACTION: Approve FP 06-12-08 - Final Plat for Crown Plaza. BUDGETED ACTION: None*

H. Economic Development

(1) *RECOMMENDED ACTION: Approve Inter-Local Agreement by and between Charlotte County and the Charlotte County Industrial Development Authority (IDA) to review completed incentive applications and make recommendations to the County's Board of County Commissioners. BUDGETED ACTION: None*

**Agreement 2007-036**

J. Environmental Services

(1) *RECOMMENDED ACTION: Approve a Resolution amending the Conservation Easement Program. BUDGETED ACTION: None*

**Resolution 2007-074**

K. Facilities Construction and Maintenance - No items.

L. General Services

(1) *RECOMMENDED ACTION*: Approve Change Order #1 to File #05-467, Work Order #30, Wastewater Collection System Design, Contract #05-042, Engineers of Record-CCU, with Boyle Engineering in the amount of \$11,421 for a revised Total Contract Amount of \$213,610. *BUDGETED ACTION*: Budgeted amount \$220,000 in CIP c350702 Pirate Harbor MSBU Wastewater Expansion.

(2) *RECOMMENDED ACTION*: Approve Amendment #2 to Contract #06-190, Project Management - Dredging Projects, with Coastal Engineering Consultants, Inc., in the amount of \$11,920. *BUDGETED ACTION*: FY07 budget of \$11,900 is available in the Buena Vista Waterway Maintenance Unit and the Edgewater North Waterway Unit.

(3) *RECOMMENDED ACTION*: Award File #07-127, Work Order #62, Contract 05-042, Engineers of Record, for Low Pressure Sanitary Sewer System, to Greeley and Hansen LLC, for the not-to-exceed amount of \$609,943. *BUDGETED ACTION*: Budgeted amount in Engineering Services \$520,000 and Construction Services \$1,150,000 in CDBG Disaster Recovery Grant for Charlotte Harbor CRA Area, \$421,643 Engineering and \$188,300 Construction, for a total of \$609,943.

(4) *RECOMMENDED ACTION*: Approve Work Assignment #1 Fordham Waterway to Contract #07-206, CEI Services - Stormwater, with Wilbur Smith Associates, in the not-to-exceed amount of \$162,501. *BUDGETED ACTION*: FY07 budget available for this structure is \$1,200,000 in the Mid Charlotte Stormwater MSBU, CIP project c390304, GPC Control Structures.

(5) *RECOMMENDED ACTION*: Award File #07-209, Work Order #65, Contract 05-042, Engineers of Record, for Golf Course Reuse Storage, to Stantec Consulting Services, for the not-to-exceed amount of \$218,780. *BUDGETED ACTION*: Budget Amount \$225,000 in CIP c350601 Reclaimed Water Expansion.

(6) *RECOMMENDED ACTION*: Approve Consent to Assignment for the Zeeweed Membrane Bioreactor between Charlotte County (buyer), Zenon Environmental Inc. (seller) and Adams Robinson Enterprises, Inc. (contractor) to be utilized for the Rotonda Water Reclamation Facility Expansion. *BUDGETED ACTION*: None

(7) RECOMMENDED ACTION: Approve the piggyback purchase of a 4x6 cab & chassis and water tank from Atlantic Truck Center of Fort Lauderdale, Florida, off of the Florida Sheriff's Association, Florida Association of Counties & Florida Fire Chiefs' Association Bid #06-14-0821A, Pursuit, Administrative Non-Pursuit, Utility Vehicles, Trucks & Vans, & Other Fleet Equipment (Trucks Only), for a total cost of \$147,695. BUDGETED ACTION: Budget Amount \$152,000 in CIP c350101 East Port Upgrades.

(8) RECOMMENDED ACTION: a) Approve to authorize staff to enter into negotiations on Bid #07-282, Emergency Generator for West Port Reclamation Facility, with the lowest responsive, responsible bidder, Windermuller Technical Services, of Sarasota, Florida; and b) Authorize the County Administrator to award the negotiated contract amount, as long as the amount does not exceed \$390,337. BUDGETED ACTION: Budgeted amount \$365,000 in CIP c359502 - West Port Water Reclamation Facility.

M. Human Resources - No Items.

N. Human Services

(1) RECOMMENDED ACTION: Appoint Mary (Dee) Rutko, from the Southwest Florida Workforce Development Board, to the Charlotte County Community Action Agency Advisory Board to fill the vacancy previously held by Susan Flores. BUDGETED ACTION: None

P. Information Technology - No Items.

Q. Parks, Recreation and Cultural Resources - No Items.

R. Public Safety - No items

S. Public Works

(1) RECOMMENDED ACTION: Set a public hearing for June 12, 2007, at 10:00 a.m. or as soon thereafter as may be heard to consider approving an Ordinance to create the Northwest Port Charlotte Waterway Unit. BUDGETED ACTION: Recording fees of approximately \$44 are available in the NW Charlotte Waterway Maintenance Fund.

T. Real Estate Services - No Items.

V. Tourism Development - No Items.

W. Utilities

(1) *RECOMMENDED ACTION:* Approve to execute the purchase agreement for Little Pine Island Wetlands Mitigation Bank Credits in the amount of \$20,250. *BUDGETED ACTION:* Budgeted amount \$21,000 in CIP c350102 - Rotonda Wastewater Reclamation Facility.

**Agreement 2007-037**

(2) *RECOMMENDED ACTION:* Approve to purge the accumulated Utilities uncollectible accounts through March 31, 2007. *BUDGETED ACTION:* None

X. Building & Construction Services - No Items.

Y. Constitutional - No Items.

V. REGULAR AGENDA

Z. Regular Agenda

(1) *Parks, Recreation and Cultural Resources: RECOMMENDED ACTION:* Request direction from the Board with regard to the naming of the new Event Center.

Laura Kleiss-Hoeft advised that as the project moves forward reference is being made to the "Event Center", and opined that it is time to consider establishing an official name. Ms. Kleiss-Hoeft advised that there is a naming policy within the County for Parks, Recreation, and Cultural Resources Advisory Board (Advisory Board) to review names, and stated that School Board staff suggested that "The Center" not be included in official names considered because of the marketing on the Performance Arts Center. Ms. Kleiss-Hoeft reported that the local newspaper has offered to hold a naming contest, with prizes offered, that the names submitted to the newspaper could be reviewed by the Advisory Board, and recommendations then brought before the Board of County Commissioners (Board). Ms. Kleiss-Hoeft stated that the Advisory Board would like to see "Charlotte County" in the name, and of the names reviewed recommends the

following: (1) Charlotte County Entertainment Complex (2) Charlotte County Riverside Event Center (3) Charlotte County Harbor Event Center. Ms. Kleiss-Hoeft advised that staff seeks direction from the Board.

Mr. Loucks explained that the reason the Tourist Development Committee chose Charlotte Harbor Event and Conference Center was because there is an effort to identify this area from a tourism prospective with association to the "Harbor."

**Commissioner D'Aprile** opined that of the three choices presented on the goldenrod, his choice would be the Charlotte Harbor Event Center or Charlotte Harbor Event Complex. **Commissioner Duffy** likes the name Charlotte Harbor Event and Conference Center, believes a contest would be nice to allow citizens an opportunity to participate, and indicated that the names already submitted could also be entered into the contest. **Commissioner Moore** agreed with **Commissioner D'Aprile**. **Chairman Loftus** inquired if the Board had interest in a contest going forward. **Commissioner Cummings** advised he had no strong feelings either way, and that a contest is fine with him. **Commissioner D'Aprile** said he would like to reconsider his initial statement and would support a contest.

**COMMISSIONER D'APRILE MOVED TO APPROVE HAVING THE CHARLOTTE SUN HERALD CONDUCT A NAMING CONTEST FOR THE NEW EVENT CENTER, SECONDED BY COMMISSIONER DUFFY.**

**Commissioner D'Aprile** inquired what prizes are offered. **Commissioner Duffy** asked who makes the final decision. **Chairman Loftus** stated that the Board makes the final decision.

Brian Gleeson of the Charlotte Sun Herald explained that a prize package would be offered that included a subscription to the paper for 1 year, the use of the newspaper's suite at the Stadium for the Red Fish games, and a gift basket with gift cards from the newspaper's advertisers, with a value of approximately \$500. Mr. Gleeson stated that the Charlotte Sun Herald expects to provide a list of ten names to the Advisory Committee, who would then submit the names to the Board for final decision. **Commissioner Moore** opined that the procedure indicated by Mr. Gleeson is appropriate. **Commissioner Duffy** clarified that the names already submitted would be included in the contest, and

indicated that if there was anyone who wanted to pay for the Event Center it could be named after them.

**Motion Carried 5:0.**

(2) Environmental and Extension Services: RECOMMENDED ACTION: Board discussion and direction regarding Transfer of Development Units (TDU) and Florida Community Trust (FCT) grant for the Buck Creek Property, whether to retire or sell the TDU.

Jim Thomson explained that the item before the Board is for discussion and decision regarding the transfer of development rights and the Florida Community Trust (FCT) grant application regarding the Buck Creek Property, and provided an overview that paralleled the goldenrod. Mr. Thomson advised that direction is requested from the Board on whether to continue with the grant application, or explore the possibility of selling the development units on the open market.

**Commissioner Cummings** opined that the grant funding would be more than what would likely be received by selling the development units on the open market. Mr. Thomson indicated it would be necessary to go out for bids to determine what the market is. **Commissioner Cummings** commented on the advantages of retiring development units, indicated that once the development units are sold you would not be eligible for the grant funding, stated that if a grant was applied for and it became apparent the funds would not be received, the development units could still be sold, and opined that for the time being it makes more sense to pursue the grant funding.

**Commissioner D'Aprile** explained that the county has its preservation act to preserve land and control or manage growth, and that he prefers to retire the Transfer of Density Units (TDUs) and apply for the grant. **Commissioner Moore** stated that he would prefer the County hold its TDUs and determine what to do with them at a later time, indicated that the county owns the property now and that it is almost paid off, and explained that he is in favor of the County getting money back from the State to bring money back into the County and help the budget. **Commissioner Duffy** requested clarification. Mr. Thomson explained that at the present time there is no action being taken on the TDUs, that if the County applies and receives the grant,

then in essence it is retiring the TDUs, but that applying for the grant in itself does not do one or the other. **Chairman Loftus** opined that the County should first pursue the grant application.

**COMMISSIONER D'APRILE MOVED TO APPROVE GIVING DIRECTION TO STAFF TO APPLY FOR THE GRANT AND HOLD THE TDUS IN THE BACK BURNER UNTIL SUCH TIME AS WE HAVE RECEIVED THE GRANT MONEY, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

(3) County Attorney: **RECOMMENDED ACTION:** Accept the letter of notification from the Charlotte County Airport Authority of the abandonment of the Charlotte County Airport Development of Regional Impact Development Order pursuant to Section 163.3177(6)(k), Florida Statutes. **BUDGETED ACTION:** None.

Attorney Knowlton advised that this item is acknowledgment of the abandonment of an outdated Development of Regional Impact Development Order (DRI) for the Charlotte County Airport for the purpose of allowing the Publix project to go forward. Dan DeLisi pointed out that a motion should also include authorization for a letter of acknowledgment to be sent to Gary Quill, Executive Director, Charlotte County Airport Authority (CCAA.)

**COMMISSIONER D'APRILE MOVED TO APPROVE ACCEPTING THE LETTER OF NOTIFICATION FROM THE CHARLOTTE COUNTY AIRPORT AUTHORITY OF THE ABANDONMENT OF THE CHARLOTTE COUNTY AIRPORT DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER PURSUANT TO SECTION 163.3177(6)(K), FLORIDA STATUTES, AND AUTHORIZING A LETTER OF ACKNOWLEDGMENT TO BE SENT TO GARY QUILL, EXECUTIVE DIRECTOR, CHARLOTTE COUNTY AIRPORT AUTHORITY (CCAA), SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 5:0.**

(4) Public Safety: **RECOMMENDED ACTION:** Approve a resolution declaring a temporary state of local emergency due to extreme drought conditions and prohibiting the use of open burning and the use or sale of fireworks. **BUDGETED ACTION:** None

Fire Chief Dennis DiDio explained that this item is the Ordinance and Resolution for banning open burning and the sale and use of firework discharge in Charlotte County, explained that the

drought index is currently 605, commented on the fires going throughout Florida and stated that Charlotte County has had 230 fires since January 2007, did a comparison of the current year to last year, stated that resources in Florida are very thin, explained some of the reasons for requesting this Ordinance and ban, agreed with Mr. Vaeretti that fireworks are low on the scale for causing fires, but indicated that it is a chance that cannot be taken with conditions as they are right now.

**Commissioner Moore** asked when this would become effective if passed today. Chief DiDio advised that it would go into effect today, that it is a temporary ban and would be reviewed every 14 days to determine if it remains in effect or is lifted by the Board, and explained why review would only be done during that 14-day cycle. Deputy County Attorney Daniel Gallagher clarified that the Ordinance goes into effect once it is put into certified mail to the Department of State. Attorney Knowlton stated that it would be sent certified mail today therefore the ban would be effective today. **Commissioner Moore** asked how businesses are notified. Chief DiDio stated that the Fire Marshall would visit each business when the ordinance becomes effective. **Commissioner Duffy** asked if any tent permits have been issued. Chief DiDio indicated that no tent permits for seasonable fireworks has been issued, that permits are issued through Community Development, and suggested that permits be accepted and put on hold until the ban is lifted. **Commissioner Cummings** agreed that the ordinance needs to be implemented and understands the problem with businesses closing their doors, indicated that there is sufficient benefit of public interest, and inquired how the burn ban would be enforced. Chief DiDio explained the enforcement procedure, and stated that the only open burning allowed by the Florida Division of Forestry is citrus canker burns.

**Commissioner Cummings** confirmed that citations can be issued if matters get out of hand and asked if there was any kind of active effort going on to look for open burns. Chief DiDio advised that the large burns are obvious, but that for the small backyard burns, the Fire Department must rely on neighbors to report, and indicated that for this emergency ban there would be an effort to get information out to the public through the news media. **Commissioner Cummings** indicated that whatever activity the Fire Department does to stop those type burns would be the same activity used to stop people from using the fireworks.

**Commissioner Cummings** commented on people purchasing fireworks from another location, and questions if you would get the same benefit trying to deal with the use of fireworks as you would doing that plus banning the sale of them. Chief DiDio commented on how many fireworks were sitting on people's homes during the July 4th holiday, and advised there are not enough officers for the Sheriff to enforce this problem.

Chief DiDio reported that the Florida Fire Chiefs and Fire Service have been fighting the sale of fireworks throughout the State of Florida, which is still in legislation, and indicated that there is a loophole in the law as to certain types of fireworks.

**Commissioner D'Aprile** indicated that the ban would be temporary, but that the effect to the income of the individuals who operate this type of business is of concern. **Commissioner D'Aprile** inquired if businesses could sell fireworks out of state via mail order. Chief DiDio stated he has no problem with mail orders being done out of the state of Florida. **Commissioner D'Aprile** advised he would like to amend the ordinance to allow businesses to negotiate sales of fireworks through mail orders only. **Commissioner Cummings** inquired if fireworks could be sent through the mail. Chief DiDio acknowledged that fireworks could be purchased through the mail. Attorney Knowlton indicated the change could be made if that is what the Board wants.

The Public Hearing was opened by **Chairman Loftus**. Bill Vaeretti advised that fireworks cannot be sent by U.S. Mail or UPS, but can ship by trucking. Mr. Vaeretti said Federal Express will take firework packages to certain airports. Mr. Vaeretti advised that during fire season he always questions if there is sufficient evidence that fireworks create enough burns to take away a businesses right to sell fireworks, agreed that Florida has a messed up fireworks law, but indicated that businesses have the right to sell them. Mr. Vaeretti stated that he wants statistics and laws showing that individual counties can prohibit the sale of fireworks. Mr. Vaeretti advised he already has tent permits for Charlotte County, and indicated he would like the County to get more information and statistics and not just pick on the fireworks industry.

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

Motion Carried 5:0.

Commissioner D'Aprile inquired if Sarasota County does not sell fireworks to anyone. Chief DiDio stated that his understanding is that Sarasota County banned fireworks altogether in that County, but understands it is in litigation. Commissioner D'Aprile inquired if the Board can legally ban businesses temporarily from selling fireworks because of the conditions that prevail in this community. Attorney Gallagher stated that under Chapter 791 counties are given the power to regulate the sale of fireworks within their borders; that, coupled with the fact that Board finding by Resolution that an emergency situation exists and that the public health, safety and welfare of the citizens are in jeopardy by a connection between the sale of fireworks and the start of wildfires throughout the county, that in his opinion based upon those grounds, that the county can institute a temporary ban on the sale of fireworks. Mr. Loucks asked how the ordinance would impact enforcement on those permits for that have already been secured. Attorney Knowlton opined that permits already ready issued would have to be held in abeyance. Attorney Gallagher advised that if passed, the resolution and ordinance would negate the existing permits because of the emergency situation that exists within the county.

Commissioner Cummings asked about the statistics of fires caused by fireworks. Chief DiDio indicated that there were 9 fires caused by fireworks during the period July 3,4,5 2006, and 4 or 5 during the period July 3,4,5 2005; that at professional shows there is usually a brush fire, but pointed out that apparatus is stationed at those shows to handle a situation. Commissioner D'Aprile stated that this is a difficult situation, but fortunately not permanent.

Attorney Knowlton stated that the resolution needs to be included. Attorney Gallagher advised out that the ordinance and resolution need to be voted on separately and pointed out that to be effective under state law, the emergency ordinance needs to be approved by a super majority of 4 out of 5 of the County Commissioners.

COMMISSIONER D'APRILE MOVED TO APPROVE EMERGENCY ORDINANCE 2007-040, SECONDED BY COMMISSIONER MOORE.

Commissioner Cummings advised that he would support the ordinance because of the overall benefit of getting the burn ban put in place, but stated that he is not convinced that the benefit from prohibiting the sale of the fireworks during this timeframe is substantial enough to have those businesses close for that time. Attorney Gallagher inquired if there was to be any re-wording of the ordinance. Commissioner D'Aprile indicated he would not change the ordinance.

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE RESOLUTION 2007-075, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

County Administrator Loucks requested consensus of the Board to accept the letter on tax reform reviewed by the Board and reflected in the draft of the Charlotte County Budget In Brief 2007 to be submitted to all Legislators, the Florida Governor's Office, all media outlets, and placed on the Charlotte County website. Consensus was given.

RECESS: 10:15 AM - 10:25 AM

#### VI. PUBLIC HEARING AGENDA

(1) Utilities - RECOMMENDED ACTION: Conduct a Public Hearing to consider revisions to County Code Chapter 3-8, Article VI - Reclaimed Water System.

Jeff Pearson provided a presentation that paralleled the goldenrod and reviewed the Summary of Proposed Changes and reasons for updates furnished in the packet material.

Chairman Loftus asked what type of pipe (color of pipe) would be used in the cross connections. Mr. Pearson said this specific ordinance does not include the actual engineering specifications that would be required for reuse, and indicated that is another document that we have in engineering that controls what those materials are, color of pipe. Mr. Pearson stated that the pipe

and fixtures would have to be purple for reuse and is controlled by engineering specifications.

**Chairman Loftus** asked if this would also go on residential if they were within 100'. Mr. Pearson replied affirmatively as long as it was available and there was enough, and explained that it is hopeful that as the county grows there will be more reuse and more residential communities would be served with reuse.

**Commissioner Moore** expressed skepticism of that happening because of the stringency in rules. **Commissioner Moore** requested clarification of the concern in adding the clause that a user cannot add chemicals. Mr. Loucks explained that the concern is with fertilizers or other types of turf maintenance or landscaping maintenance chemicals being put in that could get back into the system and into the potable side. Mr. Pearson agreed, and indicated that it is to reduce a potential risk. **Commissioner Moore** commented on using reuse for fire protection.

Vincent LiCausi, Facilities Manager for water and wastewater treatment plants, advised that reuse waster is used in the state but that Charlotte County does not have the volume. **Commissioner Moore** opined that what is being done is appropriate, but that Charlotte County will never have enough reuse and will always have to prioritize. **Commissioner Moore** asked if the exclusive intent of providing reuse to golf courses and the like is to their ponds, or if pressurized live systems along the way are envisioned. Mr. Pearson stated that it is envisioned that each bulk customer such as golf courses, parks, or schools, would have an on-site storage pond to provide for additional capacity during the dry season, indicated that during the wet season it is hard to get rid of reuse because no one wants it, but during the dry season everyone wants it, and pointed out that presently during the wet season reuse must be sent down a deep well if there is no where to put it.

**Commissioner Moore** inquired if distribution would be to a development's pond for them to pressurize and distribute to their homes, or be a live pressurized system from CCU. Mr. LiCausi advised that there would be sufficient pressure for CCU to get flow to the development, and indicated that there is a provision in the reuse agreement which indicates that it is up to the user to provide any additional

pressure required. **Commissioner Moore** asked if future plans include the ability to store reuse in Aquifer Storage Recharge (ASR) wells. Mr. LiCausi replied affirmatively, and pointed out that currently there is a study going on for an ASR well in West County.

**Commissioner Cummings** inquired about the requirement of pond lining for reuse storage. Mr. LiCausi said ponds strictly for reuse, which is how golf course ponds are built, do not have to be lined, and advised that the Department of Environment Protection (DEP) requires that reject water, which is non-reclaimed water quality, go into a lined pond. **Commissioner Cummings** asked if reuse contracts currently existing would be re-negotiated. Mr. LiCausi replied affirmatively, and indicated that the intent is to get one uniform agreement.

**Commissioner Duffy** clarified that excess water put down the ASR well could be brought back up. Mr. LiCausi explained that the current on-site storage capacity is limited, that the overflow must go down the current deep well and be discharged, and cannot be brought back up, and indicated that the ASR does have that ability. Mr. LiCausi stated that the ASR well would have capacity in excess of 150 million gallons, and that it is the intention to have one in West County that we can eventually supplement through the interconnect between East Port and West County, replenish that during the wet seasons, and hopefully have a substantial amount of backup system.

**Commissioner Duffy** inquired if the ordinance requires developers or builders to use purple pipes. **Chairman Loftus** expressed concern for those who may not be familiar with reuse and water and the purpose of the purple pipes. Mr. LiCausi advised that each user must enter into an agreement, which states that all connections shall meet specifications and be in accordance with all local, state and federal regulations, confirmed that the type and color of pipe are specified in the ordinance, and indicated that CCU has people who inspect signage, engineering, pipe, etc. on a regular basis.

**Commissioner D'Aprile** requested clarification on mandatory hookup. Mr. LiCausi said if the development is within 500' and we are in a position where we need to expand the system, we could make it mandatory for the developer to connect, but stated that

if flows are not substantial, we would not force connections. Mr. LiCausi explained that this is more in line with new development, not old development, because of cost to put in new infrastructure.

**Commissioner D'Aprile** pointed out that that the intent is availability for irrigation purposes, and inquired about other uses for non-potable water. Mr. LiCausi said some cities use it for toilet flushing and fires, and indicated that CCU does not anticipate taking it to that level due to cost.

**Commissioner D'Aprile** stated that not everyone will want this and inquired how determination is made of where lines are placed. Mr. LiCausi explained that the intention is to look at the service areas and where existing lines are, put in dry lines and be ready to go to reuse for the future, reducing the use of potable water for irrigation, and have it available as developers want to build in a certain area and are within 500', dependent upon availability. Mr. LiCausi stated that it is the discretion of CCU to make it mandatory for the development to hook up, indicated that SWFWMD would like to see the State at 75% of its inflows to be reuse by the year 2025.

**Commissioner D'Aprile** inquired if service can be refused to anyone. Mr. LiCausi replied affirmatively. **Commissioner D'Aprile** asked if the developer had the option of refusing the service. Mr. LiCausi explained that the developer is not forced to take the services, and stated that this discussion happens during the negotiation of an agreement.

**Commissioner D'Aprile** expressed concern of the county incurring the expense of putting in lines close to new development, the developer indicating it is not wanted, and the inability to recoup the expense. Mr. LiCausi advised that the lines and infrastructure put in during development is at the developer's expense and that CCU takes over and maintains from the metering system back. Mr. LiCausi stated that if necessary there could be negotiation with the main transmission lines, but indicated that if there is a line going past the development and CCU wants to increase the reclaimed water disposal, it can approach the developer and have him hook up.

**Commissioner Moore** commented on an small community in West County that intended to use 80-100 little wells, that the area was close to a reuse line, and that after communications with the utility and Health Department, who handled small wells, the reuse line was used instead of all the little wells, and stated that reuse lines work well when available.

**Commissioner D'Aprile** commented on spray fields used in the Suncoast area. Mr. LiCausi explained that the three forms of disposal of affluent at the East Port plant are reclaimed, first, spray irrigation, second and deep well, last.

**Commissioner Cummings** asked why CCU would not be able to get water up to a reuse quality. Mr. LiCausi explained that there could be maintenance issues, or upsets at the plant, some of which cause an automatic shutting of the valves.

**Commissioner Cummings** asked what percentage of the affluent that comes out of the plant is non-claimed that cannot be used for reuse. Mr. LiCausi said each plant is different, but estimated that it is in the 90 percentile of times that reclaimed water is being produced, indicated that East Port is the largest facility and is in reclaimed water quality most of the time, and reported that East Port is still pursuing users, so that affluent goes to spay irrigation or down a deep well.

**Commissioner Cummings** asked that of all the disposal not going to reuse what is the peak flow to the combination of spray fields and injection wells; and indicated his reason for asking is that he is trying to determine what capacity in ASR's would be needed to capture 100% of reusewater.

Mr. LiCausi estimated that the East Port facility averages about 4.3 million gallons per day, and indicated that a large percentage of the water produced at East Port is reclaimed quality. Mr. LiCausi reported that West County is being looked at for an ASR well because that is where growth is happening right now and the flows in West County are less than in East Port, and that eventually there will be the ability to send flows from East Port to the ASR in West County to supplement their needs.

**Commissioner Cummings** inquired about countywide averages. Mr. LiCausi estimated the affluent average for West Port, 400,000

gallons and Rotonda, 600,000 gallons, indicated that the demand is much greater, and stated that the ponds at the Rotonda facility are dry. Mr. LiCausi explained that the West Port facility has 10 million gallons of storage, and becomes a balancing act because of the large demand from Coral Creek.

**Commissioner Cummings** indicated that the primary reuse water that is not getting used is in East Port. Mr. LiCausi explained that there is no storage facility at East Port, but that it is being addressed right now in the expansion; that there are two permitted non-reuse lined ponds with the capacity of 95 million in one and 45 million in another; that we are exploring converting one of the ponds to a re-claimed storage and will recycle the non-reuse water; and stated that getting the lines out and getting users would be the next issue.

**Commissioner Cummings** indicated that peaking would still be a key issue, and commented on having ASR at East Port. Mr. LiCausi advised that the reason West County was chosen is because the storage is very limited, and that East Port could provide enough storage to meet the needs for years to come, and indicated that the priority right now is to get some storage out to West County.

**Commissioner Cummings** commented on nitrate and phosphorous levels. Mr. LiCausi explained that the nitrates as a whole are well under the limit of 12 consistently, that there are no phosphorous limits, and we meet all the requirements of reclaimed water.

**Commissioner Moore** advised that when the utility goes to ASR wells for reuse storage, State rules require that primary drinking standards be met. Mr. LiCausi pointed out that we meet both primary and secondary drinking standards.

**Chairman Loftus** opened the public hearing. Grace Amodeo opined that ordinances should be written so that the average citizen can understand them, and that language in contracts should also be included in ordinances.

Jack Donkel advised he lives in the Oyster Creek basin area, commented on the water shortage and drought, and opined that millions of gallons of clear water that flows from Sarasota

and the forest into the New Gate Waterway and the Gulf could be saved.

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

Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-041, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

#### VII. PRESENTATION AGENDA

(1) Utilities - RECOMMENDED ACTION: Power Point presentation to update the BCC on the latest alignment and modifications to the Charlotte County/Punta Gorda water interconnect.

Jeff Pearson presented a map, which reflects existing interconnects, Phases I and II of the Punta Gorda/CCU proposed interconnect, and the Englewood Water District interconnect that is currently under construction. Mr. Pearson reported that the county has 9 interconnects with private and public utilities, and advised that the topic of today's conversation is the CCU/Punta Gorda interconnect.

Mr. Pearson stated that the powerpoint presentation is to update the Board on the latest alignment and modifications to the Charlotte County/Punta Gorda water interconnect, and indicated that Phase I and Phase II of the Charlotte County/Punta Gorda interconnect project have been combined and the project now includes a section of water main extending down US-17 to the Shell Creek Water Treatment Plant.

Mr. Pearson reported that the interconnect pipeline route begins at the Peace River's existing 24" main at the North connection on Sandhill Boulevard, that Phase II runs down along I-75, then connects to the original Phase I pipeline, which starts at East Port, then runs across a subaqueous bore underneath the Peace River and ties into the City of Punta Gorda's existing 30" water main on US-17.

Mr. Pearson advised that originally the Board approved first moving forward with Phase I only, and that as times passed and meetings were held, the Water Authority Board gained a greater interest in the pipeline interconnect between Charlotte County and the City of Punta Gorda versus the interconnect between the Peace River and the City of Punta Gorda.

Mr. Pearson reviewed the Estimated Project Costs that paralleled the presentation material furnished in the Board packet, advised that the numbers are conceptual and include engineering, indicated that preliminary approval has been given by the City of Punta Gorda (City), but that the City believes additional modeling should take place before agreeing to the new project that came out of Phases I and II, and explained that our original Phases I, II, and II, did not include another line going up US-17 to the Shell Creek plant.

Mr. Pearson reviewed the Potential Funding Sources, the Project Overview, the Key Project Objectives, and the Interconnect Pipeline Route that paralleled the presentation material furnished in the Board packet, and commented on additional benefits.

Mr. Pearson reviewed the Meter Detail (Alternate) and the Washington Loop Rd. Water Main as reflected in the presentation material furnished in the Board packet, advised that the previous two slides about the metered property shown in the presentation material should be disregarded as the property is unavailable, and indicated that it is hoped that right-of-way or access would be obtained to place a meter near US-17.

**Commissioner Cummings** stated that he understands the City has improvements it wants, but inquired what the assessment was by County staff as to how necessary the improvements are to make the pipeline work. Mr. Pearson said there are still many unknowns, that he has had concerns expressed by City staff that the alignment and project could present some unique challenges, and that the City recommended drawing water directly from its clear well rather than tying into its distribution system, due to concerns of the City being unable to meet its own customer demands during peak hours. Mr. Pearson introduced Dorian Popescu of DMK, the County's consultant, to address the City's concerns. Mr. Popescu advised that the City has concerns of its peak hour

flows and of a bottleneck. Mr. Popescu explained that if we want to transfer 6 million gallons, which is equivalent to what the Peace River wanted to do by pumping directly from the Shell Creek Plant, it would have created a bottleneck, and why a 24" pipe was added, but stated that this would be verified once both the Charlotte County and City of Punta Gorda models are updated.

**Commissioner Cummings** stated that he had been thinking of this in terms of the additional 2 MGD that would be available to the region; indicated that 6 MGD in the off-season is completely different, would be to increase the reliability of the existing allocation rather than to make new water available, because that would be to fill the aquifer storage and recovery wells, and pointed out that we would pay 70% of the 6 MGD that is purchased.

**Commissioner Cummings** asked what the water quality was coming out of there during that time versus the water quality coming out of the ASR's during the dry season, and if the salinity problem in the Shell Creek Basin had been dealt with sufficiently so that you would get substantially better quality water in that 6 MGD. Mr. Pearson stated that he is not as familiar with the City's system, and indicated that it would have to be looked at on its own merits, the time of year and conditions that either supply was experiencing during that particular time of year.

**Commissioners Cummings** indicated that the Shell Creek Basin had more salinity issues due to irrigation, and that it has been done for so long that there is a buildup; and indicated that if this addresses reliability, then we need to realize that it is water that we are likely to be paying for rather than someone else.

Mr. Pearson reported that the City is upgrading the Shell Creek plant to a higher capacity, but that he does not know the engineering specifics of how water quality will be improved as part of that expansion. **Commissioner Cummings** indicated that he wants to be certain that there is a clean, clear understanding of what portion of the pipeline actually provides a benefit to Charlotte County, because his impression is that Charlotte County does not need the entire \$19 million pipeline. **Commissioner Cummings** commented on cost, local match, and available capacity based upon contribution of customer's percentage of the local match, and opined that there still needs to be some movement in

order to make this in the public interest of Charlotte County citizens.

**Commissioner Duffy** requested clarification that it was **Commissioner Cummings'** suggestion to do the alternative pipeline to that on US-17, and that it was favored by the Water Authority. **Commissioner Cummings** commented on what was suggested to the Water Authority, which at the time gained it's interest, but which is not what is being proposed here, and explained that changes occurred when it went to the Southwest Florida Water Management District (SWFWMD) that makes millions of dollars worth of difference.

**Commissioner Moore** stated that he is not inspired over the plan, and inquired what the desire was for the end of the day. **Commissioner Cummings** explained that the purpose was to give the Board a presentation on the routing and proposal before staff gives a presentation to the Water Authority. **Commissioner Moore** opined it would be a difficult presentation because of concerns and unknowns that have previously been voiced today, and indicated he would like to move forward on this and try to find funding for up to \$17 million, but not \$19 million.

Mr. Loucks advised that this project has been fast-tracked in terms of the evolution and planning, that the City, County and Water Authority agree that this is at a conceptual stage right now, and that there are engineering and technical issues to be worked through, and questions yet to be answered, before this can be a viable project. Mr. Loucks stated that we are just trying to keep this moving forward, and advised that the next step is a presentation to the Water Authority Board where the issues will be discussed again.

VIII. PUBLIC WORKSHOP AGENDA - Public input permitted. - No items

IX. BOARD WORKSHOP AGENDA - No public input. - No Items.

X. CITIZEN INPUT - ANY SUBJECT

Mr. Donkel gave a handout and requested that the Charlotte County telephone listings on the internet website be updated to include Englewood numbers.

AA. County Administrator:

None

BB. County Attorney:

None

CC. Commissioner Comments:

*Commissioner D'Aprile* stated that the commercial building design standards need to be reviewed further and that he would like to move the changes up to June or July. *Chairman Loftus* agreed that it should be moved forward if there are no objections from the Board.

*Commissioner Moore* provided an update regarding Dr. Asperilla's design methods and uses of water, and indicated that a layman's draft of a concept of a contract that is legal for CCU and protects the County is being circulated and reviewed, and hopefully will be available for discussion at the next Board meeting.

**ADJOURNED: 11:45 AM**

XI. EXECUTIVE SESSION

(1) Attorney's Office - Hold an Executive Session on May 22, 2007 at 10:00 AM, or as soon thereafter, in the County Attorney's Office Conference Room to discuss phosphate - Ona Mine and global settlement strategy.

Attorney Knowlton announced the opening of the public portion of the Executive Session at 11:45 AM; advised attendees of the client/privilege portion of the Executive Session would include all Board Members, County Administrator Loucks, herself, Assistant County Attorney Marty Burton, and Special Council Ed Delaparte to discuss phosphate - Ona Mine and global settlement strategy, in the County Attorney's Conference Room, for approximately 1 hr.

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May 22, 2007

The Executive Session was adjourned at 12:45 PM without the Minutes Clerk being present and notification was made by telephone.

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

gm