

**BOARD OF COUNTY COMMISSIONERS**

**AUGUST 28, 2007**

A regular meeting of the Board of County Commissioner was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Loftus, Commissioner Duffy, Commissioner Cummings, and Commissioner D'Aprile. Also in attendance were County Attorney Knowlton, County Administrator Loucks, Chief Deputy White, Executive Assistant Hunter, and Deputy Clerk Manley. The following members were absent: Commissioner Moore. 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:**

**Change # 1** - VI-1- Purchasing - 10:00 AM Public Hearing - Recommended Action: Conduct a Public Hearing and approve an amendment to Section 1-2-186 of the Charlotte County Code to provide that all competitive sealed bid processes be posted electronically.

**Addition No. 1** -VI-3 - Community Development - 10:00 AM Public Hearing - Requested Motion/Action: Conduct a hearing on August 28, 2007 to consider a revised sign ordinance for Charlotte County.

**Deletion # 1** - VI-3 - Community Development - 10:00 AM Public Hearing - Requested Motion/Action: Conduct a hearing on August 28, 2007 to consider a revised sign ordinance for Charlotte County.

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

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

**Special Recognition**

**Proclamations - Commissioner Adam Cummings - None**

Employee Recognition - None

Award Presentations

Recognition of award received by Charlotte County Utilities (CCU) in the 13th Annual Communicator Awards for its Charlotte County Utilities University program.

CCU Community Relations Manager Leigh Sprimont acknowledged receipt of the Communicator Awards by CCU for its University program. Jim Drake commented on the CCU programs and benefits to the employees.

Presentation of Charlotte County Chamber of Commerce 2007 Business-Education Partner of the Year Award by Julie Mathis, Executive Director of the Charlotte County Chamber of Commerce.

Ms. Mathis recognized CCU's Community Relations Division with a presentation of the Charlotte County Chamber of Commerce 2007 Business-Education Partner of the Year Award, for its educational outreach program, "S.I.P. Kids: Reduce, Reuse and Recycle Water."

Ms. Sprimont acknowledged receipt of the award on behalf of the CCU Community Relations Division.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Bruce Pomeroy commented on funding cuts. **Chairman Loftus** explained that this is not an agenda item and that Mr. Pomeroy could address the issue later in the meeting during Citizens Input, Any Subject.

Carl Johnson commented on agenda item VI-2, ATU systems.

Bruce Pomeroy spoke in favor of agenda item Z-2.

Leonard Leavy spoke in favor of agenda item Z-2.

Marvin Dunlevy commented on the contract with the ball team. **Chairman Loftus** explained this item is not on the agenda, but

could be addressed later in the meeting during Citizens Input/Any Subject.

**II. COMMITTEE VACANCIES**

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

Town Estates Street & Drainage Unit Advisory Board - seeking one volunteer. This is a three (3) year term effective immediately and it expires on January 23, 2010.

Construction Industry Licensing Board - seeking a volunteer to represent the "consumer advocate" category. Volunteer must be a resident of Charlotte County for at least 2 years and have no financial interest, direct or indirect, in the building trades. Length of term - 4 years.

Code Enforcement Board - seeking two volunteers; one realtor and one businessman. These are three (3) year terms effective in September, 2007 that will expire in September 2010. This Board meets the first Wednesday of each month at 9:00 a.m.

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.

Affordable Housing Advisory Committee - seeking four (4) members in the following categories; a Member-at-Large with term ending March 2008 and a Banking Representative with term ending September 2009. Additionally, the passage of HB 1375 requires the appointment of two additional members to the Affordable Housing Advisory Committee. The Bill requires the appointment of a citizen representing a Charlotte County Employer and a citizen representing Charlotte County Essential Service Personnel for a two year term.

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

**IV. CONSENT AGENDA**

**COMMISSIONER CUMMINGS MOVED TO APPROVE THE CONSENT AGENDA, SECONDED BY COMMISSIONER D'APRILE.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

A. Finance Division

(1) RECOMMENDED ACTION: Approve Clerk's Finance Memoranda.

Memorandum #1 - Status of Contingency Reserves - FY05/06

Memorandum #1A - Status of Contingency Reserves - FY 06/07

Memorandum #2 - Total Disbursements for the period August 7, 2007 through August 20, 2007 in the amount of \$16,340,434.59.

BUDGETED ACTION: None

Clerk of the Circuit Court

B. Minutes Division

(1) RECOMMENDED ACTION:

07/13/07 9:00 AM Capital Improvements Program (CIP) Workshop

07/16/07 5:01 PM MSBU Public Hearings

07/17/07 9:00 AM Land Use Public Hearings

07/17/07 5:01 PM MSBU Public Hearings (Lemon Bay)

07/24/07 9:00 AM BCC Regular Meeting

07/30/07 9:00 AM Budget Workshop

08/07/07 9:00 AM Roundtable Discussion

08/07/07 12:50 PM Meet & Greet Luncheon

BUDGETED ACTION: None

Board of County Commissioners

C. Commission Office

(1) *RECOMMENDED ACTION*: Appoint Charles Crafton as a regular member to the Gulf Cove Street and Drainage Advisory Committee. The term shall expire on January 9, 2010. Mr. Crafton will replace Ms. Bette Lyttle who resigned her position as a regular member on July 31, 2007. The vacancy has been duly advertised. *BUDGETED ACTION*: None

(2) *RECOMMENDED ACTION*: Re-appoint Melissa Doyle as the Labor Building Representative on the Affordable Housing Advisory Committee. This term will expire September 13, 2009. *BUDGETED ACTION*: None

(3) *RECOMMENDED ACTION*: Appoint Philip Surowitz as a regular member to the Lemon Bay Street and Drainage Advisory Committee. The vacancy has been duly advertised. The term of appointment shall be pulled by lot number during the first scheduled meeting of the Committee. *BUDGETED ACTION*: None

(4) *RECOMMENDED ACTION*: Approve a resolution establishing new Environmental Health Fee Schedules. *BUDGETED ACTION*: None

**Resolution 2007-120**

D. Administration

(1) *RECOMMENDED ACTION*: Approve a Change Order to replace a septic system for a replacement home that is funded through the Community Development Block Grant (CDBG) Housing Assistance Plan and the Home Again Program. *BUDGETED ACTION*: Funding is supplied through the CDBG Housing Assistance Plan.

E. County Attorney

(1) *RECOMMENDED ACTION*: Board approval of an agreement to terminate the Interlocal with Punta Gorda for Water Interconnect. *BUDGETED ACTION*: None

**Agreement 2006-061**

F. Budget Office

(1) RECOMMENDED ACTION: Request the Board to set a Workshop on September 4, 2007 at 2:00 P.M. in Room #119. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve the attached Interagency Agreement with the Florida Department of Juvenile Justice. BUDGETED ACTION: None

**Agreement 2007-053**

G. Community Development - No items.

H. Economic Development - No items.

J. Environmental Services

(1) RECOMMENDED ACTION: a) Approve to give permission to the County's Sea Grant Agent to submit an Artificial Reef Permit Application to the Army Corps of Engineers; and b) Approve the request for the Chairman to sign the applications; and c) Approve to identify the Sea Grant Agent as the authorized agent to oversee the permit. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Approve Amendment #07-A33 in the amount of \$59,408 and Budget Transfer 07-025 in the amount of \$59,408. The request is to transfer funds from the Public Safety Fund to the Mitigation Basin Fund. BUDGETED ACTION: Approve Budget Amendment #07-A33 and Budget Transfer #07-025.

(3) RECOMMENDED ACTION: Approve Amendment #07-A32 in the amount of \$454,528 and Budget Transfer 07-024 in the amount of \$454,528. The request is to move monies from the Utility Regulatory Fund to the General Fund. BUDGETED ACTION: Approve Budget Amendment #07-A32 and Budget Transfer #07-024.

(4) RECOMMENDED ACTION: Approve to purge the accumulated uncollectible accounts for Environmental and Extension Department in the amount of \$113,331. BUDGETED ACTION: None

K. Facilities Construction and Maintenance - No items.

L. General Services

(1) *RECOMMENDED ACTION*: Approve the renewal of Agreement #02-184, Maintenance & Repair of 800 Mhz Communication Infrastructure, to Motorola, extending the contract from October 1, 2007 through and including September 30, 2008, for an annual cost of \$150,250.65. *BUDGETED ACTION*: None

(2) *RECOMMENDED ACTION*: Approve Change Order #1 to File #07-056, Work Order #56, Contract 05-042, Engineers of Record, for Englewood Water District-CCU Interconnect with DMK Associates in the amount of \$9,000 for a revised Contract amount of \$94,490. *BUDGETED ACTION*: Budgeted Amount \$100,000 in CIP Project c330304 - Regional Water Interconnects.

(3) *RECOMMENDED ACTION*: a) Approve Award Bid #07-382, Transportation of Wastewater - Dewatered and Liquid Residuals to the overall lowest responsive, responsible bidder, H&H Liquid Sludge Disposal, Inc., of Branford, FL, at the unit costs submitted. Terms of the contract are to be from October 1, 2007 through and including September 30, 2008, and b) Authorize the County Administrator to approve renewal options for two (2) additional one (1) year periods, at the same prices, terms and conditions by mutual consent. *BUDGETED ACTION*: Based on past annual usage estimated budget requested for FY 2008 is \$1,229,055.

(4) *RECOMMENDED ACTION*: Approve Award Bid #07-413, Placida Boat Ramp Renovations, to Charlotte County Seawalls, Port Charlotte, Florida, in the amount of \$121,750. *BUDGETED ACTION*: Budgeted amount is \$125,000.

(5) *RECOMMENDED ACTION*: Approve Change Order #1 to File #06-324, Work Order #46, Contract 05-042, Engineers of Record, Potable Water Transmission Main, to DMK Associates, in the amount of \$56,500 for a revised Contract Amount of \$216,150. *BUDGETED ACTION*: Budgeted Amount \$220,000 in CIP c330602 - Water Distribution Piping.

(6) *RECOMMENDED ACTION*: a) Approve ranking of firms for Request for Proposal #07-350 Design - Storm Drain Culverts - Replacements: 1st - DMK Associates, Inc.; 2nd - Giffels-Webster Engineers, Inc.; and 3rd - Jeppesen Engineering Corporation; and b) Approve start of negotiations; and c) Authorize the

Chairman to sign the contract after completion of negotiations, providing fees do not exceed \$175,000. BUDGETED ACTION: FY07 budget available for this contract is \$175,000 in the Rotonda West MSBU.

M. Human Resources - No items.

N. Human Services

(1) RECOMMENDED ACTION: Approve and authorize the Chairman to sign the amended Substance Abuse Policy for Human Services Transit and Fleet Management. BUDGETED ACTION: None

P. Information Technology - No items.

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

R. Public Safety

(1) RECOMMENDED ACTION: Approve Affiliation Agreement between Emergency Educational Institute, Inc. and Charlotte County Fire/EMS Department. BUDGETED ACTION: None

**Agreement 2007-054**

S. Public Works

(1) RECOMMENDED ACTION: Set a Public Hearing for September 11, 2007, at 10:00 a.m. or as soon thereafter as may be heard to consider approving an ordinance creating the Punta Gorda Non-Urban Street and Drainage Unit Advisory Board. BUDGETED ACTION: Recording fees of approximately \$44 are available in the Punta Gorda Non-Urban Street and Drainage Unit.

T. Real Estate Services

(1) RECOMMENDED ACTION: Approve the attached Resolution approving the release of a portion of a ten-foot (10') wide drainage easement located in Port Charlotte Subdivision, Section Thirteen; and the release of a portion of a recorded twenty-foot (20') wide canal maintenance easement and a portion of a platted twenty-five (25') wide canal maintenance easement, both located in Port Charlotte Subdivision, Section Forty-Four, and further

authorizing the Director of Real Estate Services to execute said County Deeds releasing said portions of said easements. (Owners: H. Wendall Palm, and James A. & Shelly R. Reed)  
BUDGETED ACTION: None

**Resolution 2007-121**

V. Tourism Development - No items.

W. Utilities - No items.

X. Building & Construction Services - No items.

Y. Other Agencies - No items.

**V. REGULAR AGENDA**

Z. Regular Business

(1) Commission Office: RECOMMENDED ACTION: Appoint, by ballot, two (2) members to the Code Enforcement Board. Categories expiring on September 7, 2007 are: Businessman and Realtor. BUDGETED ACTION: None.

Mr. Loucks announced that the elected Realtor voted by ballot is Kathy Damewood and that after a re-vote there was still a tie vote between Charles Lindberg and Peter Craig Taylor. **Commissioner D'Aprile** stated that Mr. Taylor has been very active in the community and recommended expediting by a consensus of the Board for Mr. Taylor. **Commissioner Duffy** indicated that her packet contained no background material for the incumbent and agreed with **Commissioner D'Aprile**. **Chairman Loftus** agreed with **Commissioners Duffy** and **D'Aprile** and indicated there was consensus.

**COMMISSIONER D'APRILE MOVED TO APPROVE APPOINTMENT OF KATHY DAMEWOOD AS REALTOR AND PETER CRAIG TAYLOR AS BUSINESSMAN TO THE CODE ENFORCEMENT BOARD, SECONDED BY COMMISSIONER DUFFY.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

(2) County Administration: RECOMMENDED ACTION: Board of County Commissioners to discuss and to give staff direction on the

request to locate a free medical clinic at the Charlotte County Family Services Center. BUDGETED ACTION: None at this time until Board directs further action that will have associated costs. The proposed CIP budget includes \$3,800,000 for improvements and construction at this facility. Some of the associated costs may be part of this budget item.

Robert Hebert provided background information on Z-2 per the packet material; advised that staff recommends location of the clinic at the Family Services Center site as presented; commented on principal issues and indicated that most issues have been resolved; and addressed the estimated impact fees of \$47,063.52 and parking space requirements.

**Commissioner Duffy** inquired if impact fees are applicable as this is a non-profit providing a community service on County property. Mr. Loucks explained that the County pays impact fees to itself for projects, indicated that everyone is treated the same, and commented on the requirement for doing so.

Mr. Loucks advised that the Board does not have the option to not charge impact fees and that the County would have to pay the impact fees on behalf of the agency, which comes out of General Fund Reserves, if it does not charge the non-profit. Mr. Hebert pointed out that in the past the County has given the Homeless Coalition and other such organization a grant in an amount equal to the impact fees when they have built buildings. **Commissioner Cummings** stated that the payment would come from the General Fund Ad Valorem Taxes to which the County currently has limitations applied.

Mr. Hebert explained that the estimated impact fee of \$47,063.52 is based upon adding 3,360 sq. ft. to the footprint of the facility. **Commissioner Duffy** expressed concern in the large amount of impact fee for the non-profit operation versus a residential home of the same size. Mr. Loucks explained that there is less traffic going into a home and less road trips generated than at a free clinic, and advised that impact fees are based on traffic counts. **Chairman Loftus** indicated that the impact fee could be paid from General Fund Ad Valorem Reserves.

**Chairman Loftus** indicated that the impact fees could be paid from General Fund Ad Valorem Reserves. Mr. Hebert advised

another alternative was not to pay it at all and leave it to the organization.

Dr. David Klein said he understands the pressure the Board is under and acknowledged that this is an enormous amount of money for startup for the organization; advised that this is a community service worth millions of dollars; that the hospitals have given \$40,000 each, private donations have been received, and a considerable number of business people have offered assistance; and indicated that without the help of the County the project would be set back considerably. Dr. Klein stated that the organization appreciates the land that has been given; indicated that this is an opportunity to make history because all needs will be under one roof, including dentists who have expressed an interest in joining in; and advised that the trailers are ready to go upon direction of the Board regarding the impact fees.

**Commissioner D'Aprile** stated that this service to the community is badly needed; indicated that that impact fees are important and the Board cannot do for one and not the other; opined that the clinic would save the hospitals many thousands, or perhaps millions, of dollars; and inquired if the hospitals could pay the impact fees.

Dr. Klein stated that if the organization must pay the impact fees, then it would do so by looking at alternative funding sources, including going back to the original funders; indicated that the organization must prove to the hospitals that the clinic would save them money; and that even though it would set the project date back, the organization would not stop because of this glitch. Dr. Klein pointed out that appearance today is also for determination of placement of the module and if the organization can proceed.

**Commissioner D'Aprile** stated that he does not want to delay this project; inquired if the impact fees could be set aside temporarily to allow the organization time to determine if the hospitals could raise the funds to pay the impact fees; that in the event the hospitals are unable to pay the impact fees, bring the matter back to determine an acceptable source of funding. Mr. Loucks replied affirmatively, and explained that the impact fees must be paid at the time the Certificate of Occupancy is

pulled. Mr. Loucks stated that Dr. Klein is looking for direction to move forward with all expediency to get the clinic set up; that the organization representatives will speak with hospital representatives to determine what additional funds the hospitals can give toward the impact fees, and at that point the matter can be brought back to the Board, or the Board can in its motion administratively have the County make up the difference of what the organization collects and what the impact fees are, without it having to be brought back before the full Board.

**COMMISSIONER D'APRILE MOVED TO APPROVE MR. LOUCK'S RECOMMENDATION, SECONDED BY COMMISSIONER DUFFY.**

Mr. Hebert requested clarification of the motion. **Commissioner D'Aprile** clarified that the motion is for approval of the site and location, and that the only delay is the comeback from Dr. Klein after negotiations with the hospital to determine additional funds that can be secured for the impact fees, and that the remaining difference of impact fees would administratively be transferred out of reserves "up to an amount" not to exceed what the impact fees would be.

**Commissioner Duffy** requested a breakdown of the impact fees explaining the basis of determination. Mr. Hebert stated that an itemized analysis list would be furnished to the Board. **Commissioner Duffy** asked if there are other charges, such as water connection fee, that the organization is unaware of. Mr. Hebert replied affirmatively, and indicated that there would also be a permit fee cost.

Charlotte County Utilities (CCU) Director Jeff Pearson commented on water and wastewater fee requirements, and indicated that the fees would depend on what the plans reflect, after determining that the plans meet CCU's specifications. Mr. Hebert advised that the modular is triple-wide and that staff would get a workup of the additional costs anticipated. Dr. Klein advised that this clinic will also treat children under the age of 18. **Commissioner Duffy** opined that this is a great program and that the Board should do everything possible to make it happen.

Attorney Knowlton pointed out that this matter must be brought back to the Board with a Resolution for the land lease; commented on the requirements of showing that it is a public

purpose and that the property is not needed for other County needs; and that if there is to be a rental amount, even if nominal, it needs to be set forth in a Resolution.

Mr. Hebert explained that today we are trying to get the go-ahead to pursue the clinic, and acknowledged that there are other issues to bring back to the Board based upon Florida Statute requirements. **Chairman Loftus** agreed that this is a good step forward in helping many citizens who are in need.

**Commissioner Cummings** clarified that the motion is to allow more time to put together details, look at the issue of impact and connection fees and verify what has been done, and explore further to determine if there are other fees associated with the utilities, etc.; that the Board agrees that the land will be made available, and that there are more details to be put together with that, and then proceed to facilitate it; but that the Board is not saying it is waiving the impact fees at this point. Mr. Hebert stated that the Board agrees to the site and site location, and that there are legal issues for the County Attorney to work out, as well as the impact fees and connection fees to be worked out. **Commissioner Cummings** advised he would support the motion on this basis; recalled that at committee meetings the hospitals pushed hard for this clinic indicating that it would save them millions of dollars; and believes the hospitals should be able to raise the impact fee funds.

**Commissioner Duffy** stated that it is important for citizens to understand that the hospitals have already made a substantial commitment to the clinic for operating costs, and that now the organization must go back and ask for more funds to pay for impact fees. **Commissioner D'Aprile** pointed out that precedence cannot be set and opined that the hospitals should be able to handle raising the impact fee funds because of the millions of dollars being saved by them.

**Commissioner Cummings** stated that he would like to have some level of comfort as this proceeds that there is a solid business plan and that the County will not be obligated to fund the operation for the future. Dr. Klein stated that it is hoped that proving to the hospitals that it will save them money will assure future funding by the hospitals.

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

**RECESS: 9:50 AM - 10:00 AM**

**VI. PUBLIC HEARING AGENDA - 10:00 A.M.**

(1) Purchasing: **RECOMMENDED ACTION:** Conduct a Public Hearing and approve an amendment to Section 1-2-186 of the Charlotte County Code to provide that all competitive sealed bid processes be posted electronically. **BUDGETED ACTION:** Reduction to the Purchasing Department's budget for Legal Advertisement line item from \$7,500 to \$0.

Kim Corbett provided an explanation of agenda item VI (1) that paralleled the packet material furnished; and indicated that this amendment would remove from the procurement code the requirement to advertise notice of invitations to bids in the local newspaper; that they would be posted on line in accordance with State Statute; and would save the budget about \$7,500 this next fiscal year. **Chairman Loftus** opened the public hearing.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

**Commissioner D'Aprile** thanked Ms. Corbett for looking into the savings on behalf of the County.

**COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-060, SECONDED BY COMMISSIONER DUFFY.**

**Commissioner Duffy** agreed that advertising for bids has been a disadvantage to the County; advised that Attorney Knowlton has put this issue to the Florida Commission on Open Government (FCOG); hopes that the FCOG will listen and agree that these amounts should not have to be advertised at all; and stated that she supports the amendment.

**Motion Carried 4:0.**

**ABSENT: Commissioner Moore.**

(2) Public Works / Health Department: RECOMMENDED ACTION: Consider an ordinance adopting amendments to Charlotte County Section 3-8-256 to clarify Onsite Sewage Treatment and Disposal Systems (OSTDS) requirements and adding Department of Health administered inspection and pumpout requirements for certain non-Aerobic Treatment Unit (ATU) OSTDS within Charlotte County as required by DEP for the Manchester Lock Removal Permit. BUDGETED ACTION: None.

Public Works Director Dan Quick explained that the public hearing is to consider an ordinance revising the existing septic ordinance, to implement a new inspection program for non-ATU septic systems upstream of the Manchester Lock, and to revise the current inspection process for ATU septic systems county-wide.

**Commissioner Duffy** requested clarification that many homes in Charlotte County were required to use ATU's instead of other types of septic systems; the numerous problems were encountered regarding the inspection process; that it has now been discovered that the ATU's do not present the advantage to the water system as was originally thought; and that the recommendation now is to reduce the number of homes required to have the ATU system.

Herman Velasco, Environmental Health Administrator, Charlotte County Health Department, advised that many complaints came in from citizens that the systems were not inspected, but stated that as of today every ATU in the County has been inspected. Mr. Velasco indicated that what is being asked today is for the Board to help in the enforcement action by requiring the maintenance entities to supply the homeowner and the Health Department with inspections, and for leeway in letting the Health Department do a site evaluation of all homes to determine what system could go there.

Mr. Velasco commented on difficulties experienced with ATU's. Commissioner Duffy asked why the ATU's are required to be used. Mr. Velasco reported that this requirement was put in place October 1998, even though in May 1998 the Department of Community Affairs (DCA) suggested that most coastal communities go on a basic pumpout system that is regulated and pumped every

5 years; and indicated he is uncertain if that was mandated to be ATU's or if within the County the Health Department came before the Board, indicated this was a great solution, and suggested its use.

**Commissioner Duffy** inquired if some homeowners are still required to buy ATUs. Mr. Velasco said there are properties near the water that will still require ATU's, but that this ordinance allows the Health Department power to regulate the companies and for the homeowner and Health Department to get inspections.

**Commissioner Duffy** commented on new types of drain fields; indicated that she would support the recommendation, but has concerns with the ATU's; and stated that she hopes the Health Department would continue looking for better filtration systems as they become available. Mr. Velasco agreed, but urged the Board not to require the Health Department to put so many ATU's in Charlotte County.

**Commissioner Cummings** indicated his understanding is that where sewer is not available, that not local, but State law, requires ATU's within a certain distance of water. Mr. Velasco explained about the setback requirements where ATUs are required by State law due to dimensions and setbacks.

**Commissioner Cummings** stated that it appears the core issue is that inspections and maintenance are not being done; and that being so, the ATU's should not be allowed on the small sites. Mr. Velasco agreed that is one issue, but indicated that after inspection of the ATU's it was found that the main issue is that they do not function the way they are supposed do; that they require more pumping than what is being done because that was not a recommended procedure when he ATU's were put into the market.

**Commissioner Cummings** agreed that additional inspections, a maintenance program, and changes for the Manchester Lock permits are needed; stated that he may agree in the future to getting rid of ATU's for lots less than 10,000 sq. ft.; and explained that putting in ATU's was part of a much larger platted land strategy. **Commissioner Cummings** opined that Section 3-8-256, Regulations, paragraph A, sub-1, a, b, and c, that refer to

removing ATU's on lots less than 10,000 sq. ft., or less than 20,000 sq. ft. if served by a well, is something we need to do more homework to be certain we are not cross-wise with DCA; and that if changes are to be made, that we know what we are stepping to from this, because the lots are still the same size today as when the County was under consent order.

Mr. Velasco stated that the issues today are the consumer and the groundwater; that anything that can be done to encourage growth right now would be beneficial and would give the County time to do necessary studies to determine what areas it would allow more septics in and what areas must be plumbed immediately.

Assistant County Attorney Marty Burton explained that the OSTDS ordinance was put in place in 1998 as an overall plan to address concerns of DCA, DEP and the Army Corps of Engineers; that there was a University of Florida study about a county-wide septic pump-out program; that the Board discussed the program, and is part of what Mr. Velasco and **Commissioner Cummings** refer to regarding the inspection program. Attorney Burton stated that the draft ordinance only institutes the inspection program for the lots around the Manchester Lock; that such a county-wide inspection program could happen throughout the County, but is not included in the ordinance today because the Board expressed concerns of costs to the citizens of the County for the inspection program, and because legislation proposed this year for county-wide inspection programs failed, but is expected to pass next year. Attorney Burton reported that the introduction language contained in the 1998 ordinance clarified several different places that the Department of Health was the entity responsible for administering and implementing the OSTDS ordinance, and opined that is why the Department of Health has requested the changes to the 3 places on Page 2 of the draft ordinance where ATU is being replaced by OSTDS approved by the Department of Health. Attorney Burton stated that a suggested alternative if the Board wants to take more time to look at that part of the ordinance is pass the rest of the ordinance and leave in place the inspection program around Manchester Lock, and the changes on Pages 3 and 4, which include the inspection program, and the Department of Health having more requirements for the entities that do the inspections and pump-outs for the ATU's; and that the 3 changes on Page 2, in sub-paragraphs

(a)(1)-a. and (a)(1)-b., and paragraph (2) where ATU is replaced by OSTDS approved by the Department of Health be delayed at this time pending the opportunity to check with the State agencies.

**Commissioner D'Aprile** stated that the reason the issue came about today is because of the many complaints indicating that the ATU's are not working correctly; that the ATU's are not working properly because there was not the manpower for the proper inspections; and agrees that the ATU systems should be addressed and removed where possible.

**Commissioner D'Aprile** stated that the ordinance proposed today is to add the inspections and pump out requirements for certain areas; that he **MOVES THE ORDINANCE** under those circumstances; that more consideration should be considered; and that the life expectancy of the ATU's as far as Charlotte County is concerned should be looked into. (**MOTION FAILED FOR LACK OF A SECOND.**) **Chairman Loftus** asked if the Health Department was required to test the water and how a program would be implemented to show that the inspections are being done. Mr. Velasco said water testing is done on a random basis, and explained the program implementation process and tracking program.

Mr. Velasco opined that when properties are sold in Charlotte County the Realtor should be required to have the system pumped and inspection certificates furnished to the Health Department and new property owners. **Chairman Loftus** clarified that every time the tank is pumped there should be an inspection, and inquired how often the inspections should be done. Mr. Velasco explained that ATU inspections are twice a year, and commented on some of the difficulties experienced.

**Chairman Loftus** asked how it is determined that inspections have been done. Mr. Velasco said copies of inspections would be required to be furnished to the Health Department, and that the Health Department would follow up on the inspections. **Commissioner Cummings** clarified that he supports the entire ordinance except for paragraphs a, b and c, which need to come back after determining what alternative element in the platted land strategy replaces that tool. **Chairman Loftus** opened the public hearing.

Carl Johnson commented on the ATU systems and what is being proposed in this ordinance; asked who is responsible for the program and for implementing it; indicated there needs to be a set price for cost of the inspections; that there are restrictions to consumers, but not to inspectors for timely repairs.

Marvin Dunlevy inquired if this is only for septic systems that have a drain field. Commissioner Cummings explained that this is not the utility system that has a small tank associated with the low pressure system.

**COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.  
Motion Carried 4:0.  
ABSENT: Commissioner Moore.**

Commissioner Cummings advised that he would adopt Attorney Burton's recommendation to approve the ordinance with the exception of sub-paragraphs a, b and c, on page two, which would be reviewed at a later date. Attorney Burton clarified that the exceptions are sub-paragraphs (a) (1)-a., (a) (1)-b., and (2), on Page two of the ordinance.

**COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2007-061, WITH THE EXCEPTION OF SUB-PARAGRAPHS (A) (1)-A., (A) (1)-B., AND (2), ON PAGE TWO OF THE ORDINANCE, AS AMENDED AND READ INTO THE RECORD BY ATTORNEY BURTON, SECONDED BY COMMISSIONER D'APRILE.  
Motion Carried 4:0.  
ABSENT: Commissioner Moore.**

**VII. PRESENTATION AGENDA** - No items.

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

**IX. BOARD WORKSHOP AGENDA** - No public input. - No items.

**X. CITIZEN INPUT - ANY SUBJECT**

Carol Dunecurchen stated that she is not in favor of closing the Port Charlotte Library.

Mr. Pomeroy commented on the contract with the Devil Rays, MSBUs, and payment of additional fees due to extra lots he owns.

Mr. Johnson asked if there would be further discussion on fees and to assure that Ordinance 2007-061 adopted in agenda item VI-2 is properly implemented.

Mr. Loucks commented on the stadium costs. Attorney Knowlton advised that a copy of the Devil Ray contract can be obtained from Attorney Dan Gallagher, whose office is located on the 5th floor of the Murdock Administration Building. **Commissioner Cummings** commented on the maintenance program; and indicated that it does not set a specific fee, but enforces the maintenance program.

Steven Mitnick, Charlotte County Health Department Administrator, explained that the fee approved earlier in the session only covers what the Health Department does as far as inspections are concerned, but that there are no regulatory fees for private maintenance entities. **Commissioner Cummings** clarified that the Health Department now has enforcement tools to take action against maintenance entities if inspections are not done.

**Commissioner D'Aprile** spoke in opposition of constructing the Englewood library at this time, and of closing the Port Charlotte Library.

**Commissioner Cummings** commented on a regional library versus the smaller libraries; agreed that this is a critical element in the neighborhood that the County would like to have improved; indicated that there is a way to do both because legislation gave discretion to the Board to override, although it is not an easy political position to take.

**Commissioner D'Aprile** clarified that he is not against the library in Englewood; that he opposes building any other library at this time; that he is not in favor of closing the Port Charlotte Library; and that he will bring it back at the next budget hearing.

**AA. County Administrator:**

Mr. Loucks advised Realmark will not continue with the Tuckers Grade Development proposed agreement at this time because of costs involved in construction of the wastewater force main and the reverse osmosis treatment plant and the downturn of the housing market; and that the project will be put on hold. Mr. Loucks pointed out that on August 21, 2007 the Board approved a development to the east of the proposed Realmark Development; that Realmark's decision has an impact on this development because the source of water and sewer was identified as the Realmark project; and that the development may have to come back to the Board for some other type of action.

Mr. Loucks indicated that there appears to be conflicting language in the correspondence from Mr. Lehman, Executive Director of the Peace River/Manasota Regional Water Supply Authority (Water Authority) regarding North Port - Charlotte County Utility (CCU) interconnect (per the handout material); and indicated that staff is attempting to get clarification of the financial impacts to Charlotte County.

**Commissioner Cummings** indicated that the impression he gets from the correspondence is that Sarasota will get paid for reducing its demand on the Water Authority; that North Port would be compensated for reducing its demand on the Water Authority by being paid for the water they would produce; that Charlotte County would have to reduce its take from the Water Authority, not get paid for that, and pay 100% of the cost to North Port for the water they send to us; and that it appears to be a less favorable agreement than the one to Sarasota.

**Commissioner Cummings** stated that other members of the Water Authority have an advantage because they have other supplies they can go to and that Charlotte County does not.

**Commissioner D'Aprile** expressed concern that Charlotte County is penalized when other counties are not.

**Commissioner Cummings** stated that the argument he would be presented with is that Sarasota and North Port have other supplies; that because they have those supplies and Charlotte County does not, those members can add more to the pot; that in order to encourage them to do that incentives need to be given; that there are no incentives unless they are paid for it, and

that we have no other incentive to offer; that we are paying them to use their other supplies, which provides a benefit to us; and indicated that when the quality drops at the Peace River Plant, they will want to use their other suppliers anyway.

**Commissioner Cummings** stated that Charlotte County has never used its full allocation, has never been paid for that, and now is being asked for pay for more; commented on going to a variable rate and paying for the water used; and indicated that Charlotte County is at a tactical disadvantage and that other alternatives need to be developed.

**Commissioner Duffy** inquired what "revenue neutral to the County" as stated in the letter means. **Commissioner Cummings** stated that the typical implication is that it would not cost us money or gain us money; and indicated that the letter directly contradicts itself.

**Commissioner Duffy** requested clarification that North Port wants to sell Charlotte County water and that the Water Authority endorses it; and opined that the Water Authority could not possible expect Charlotte County to pay for the water it is not taking from the Water Authority and the water it is buying from North Port. **Commissioner Cummings** explained the method of payment; and indicated that Charlotte County would pay its full allocation to the Water Authority and a minor reduction, plus water to North Port which is not being taken from the Water Authority.

**Commissioner D'Aprile** suggested that each Board member contact Mr. Lehman to clarify the intentions; stated that Charlotte County has been a larger debt than other counties, and should no longer be taken advantage of; and indicated that **Commissioner Cummings** should receive full backing from all Board members.

**Chairman Loftus** advised that a workshop is needed on all of the water issues. Mr. Loucks indicated that policy issues being dealt with at the Water Authority and Southwest Florida Water Management District (SWFWMD) is planned to be brought before the Board at the October Roundtable. **Commissioner Duffy** suggested asking representatives from the Water Authority, other county members, and SWFWMD to attend the workshop. **Commissioner Cummings** suggested that if Board members call Mr. Lehman that

they have a member of Charlotte County staff present during the call; and cautioned that what is said cannot be taken at face value, but must be checked.

Attorney Knowlton suggested that the Board have a roundtable discussion before inviting others. **Chairman Loftus** and **Commissioner Cummings** agreed that would be more productive. Attorney Knowlton recommended that Mr. Baltz be part of phone conversations that Commissioners have with Authority members. **Commissioner Cummings** pointed out that Commissioners can attend Water Authority meetings, which are the first Wednesday of each month, and that those meetings are televised on Channel 20.

Mr. Loucks clarified that the October Roundtable would be just Charlotte County staff and Board. **Commissioner Duffy** disagreed.

**Chairman Loftus** indicated that he is not certain of some facts and opined that the Board needs to address those issues before having a joint meeting with the Authority and other members.

**BB. County Attorney:**

Attorney Knowlton reviewed the disclosure letter received from the law firm Brickleyer Smolker & Bolves; stated that she recommends using this law firm for the Omni Waste mediation; that the attorneys from the law firm have asked that she sign an acknowledgment that she has briefed the Board on certain perceived conflicts; that Attorney Berntsson has approved the disclosure letter; and that she is comfortable going through with the recommendation. **Chairman Loftus** asked if there were any objections. **Commissioner D'Aprile** indicated he had no problem with it; **Commissioner Cummings** stated he trusts Attorney Knowlton's judgment.

Attorney Knowlton advised that negotiations are continuing on Murdock Village and something will be brought back to the Board within 30 days.

**CC. Commissioner Comments:**

**Commissioner D'Aprile** advised that he intends to write the Governor of Florida for support with difficulties the County is

experiencing in the building industry, items that need to be addressed, and proposals.

**Commissioner Duffy** commended efforts by the Revitalization Committee; expressed concern for those without the Save Our Home benefit; advised that the HCP has been returned to us with some minor recommendations; agreed that this is not the proper time to build the Englewood library, and that she is not in favor of closing the Port Charlotte Library; commented on a story run about the non-profits; and indicated that there have been some revisions made to the non-profits.

**Commissioner Cummings** advised that the revisions are still zero until the final budget hearings; commented on recurring costs related with staffing the libraries, which would affect the budget; and indicated that as the Board delays on the regional library for a significant period of time it will begin hearing from the West County citizens.

**Commissioner Cummings** stated that we are making a 6% reduction in the ad valorem budget; that all of the ad valorem taxes collected by the Board of County Commissioners represents about 38% of the typical tax bill; that about 19% of that is what actually goes to our operations; that a typical home would see about a 1.9% reduction below what otherwise would have occurred had we kept the same budget as now; that if converted to a wealthier property, the highest you would get is about 2.3%; that the savings being attempted would not help that much; and that over time the service we want to provide will not happen.

**Commissioner Cummings** advised that another issue on the Water Authority that will come up is the loosening of restrictions on the amount of water that can be drawn from the Peace River; that presently withdrawal is restricted to 10%; that the proposal is to increase withdrawal to 12% and add in the flows from Horse Creek and Joshua Creek; and expressed concern in allowing this to happen. **Commissioner Cummings** indicated that it may be necessary for Charlotte County to accept this on a temporary basis, but believes the intent is for over time an easing of the restrictions and for it to eventually be permanent; and that unless told otherwise, he will agree to it temporarily, but not permanently, because estuary needs to the Harbor have not been addressed.

**Chairman Loftus** requested consensus from the Board for **Commissioner Cummings** to agree to a temporary increase to 12%, but expressing reservations of it becoming permanent. **Commissioner Duffy** agreed.

**Commissioner Cummings** commented on Senator Michael Bennett's Resolution to ban drilling within 250 miles of Florida's coasts; opined that we want to keep offshore oil well drilling as far off Charlotte County's beaches as possible; that off shore oil well drilling is a heavy industry that requires a heavy onshore industry to support it; and indicated that the real shortage is the lack of refineries. **Commissioner Cummings** spoke in support of the Grow Rail Campaign referenced in correspondence from the City Manager of Bonita Springs per the packet material.

**Chairman Loftus** commented on Senator Bennett's Resolution, which Senator Bennett hopes to have passed at the State level and forwarded to the Federal level; and inquired if there were any objections from the Board. There were no objections. **Chairman Loftus** indicated that the City of Bonita Springs passed a Resolution supporting the efforts of the National Association of Railroad Passengers (NARP) with their efforts to a Grow Rail Campaign to increase passenger rail growth over the next 40 years; and inquired if there were any objections from the Board for Charlotte County's support. There were no objections.

**MEETING ADJOURNED 11:40 AM**

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