

BOARD OF COUNTY COMMISSIONERS

NOVEMBER 13, 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, Commissioner D'Aprile, and Commissioner Moore. Also in attendance were County Attorney Knowlton, County Administrator Loucks, Finance Director Navan, Executive Assistant Blair, and Deputy Clerk Mitchell. The following members were absent: None. The meeting was called to order at 9:00 AM, followed by the Pledge of Allegiance.

The invocation was given by Chairman Loftus.

Changes to the Agenda:

Change #1: G-3, Community Development - Adopt the Transfer of Density Units Ordinance - Move to 10:00 AM Public Hearing

Addition #1: National Epilepsy Awareness Month Proclamation

Addition #2: Z-1, Budget - Set a public hearing for November 27, 2007 at 10:00 AM, or as soon thereafter as may be hear, to adopt an ordinance to update the Five Year Capital Improvements Program (CIP) for FY 2007/2008 through FY2012/2013

Addition #3: Z-2, Administration - Discussion of County's Phosphate information efforts

Deletion #1: L-6 Approve the "Piggyback" of file #08-026, Ambulance Replacements, to purchase two (2) Ambulance Units, from American LaFrance, LLC, of Sanford, FL ("Piggyback" off the Florida Fire Chiefs Association, Florida Sheriffs Association & Florida Association of Counties Contract #07-07-0828) for a total cost of \$368,519.04, to purchase Emergency Medical Units.

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

Motion Carried 5:0.

Special Recognition:

Proclamations:

America Recycles Day

COMMISSIONER MOORE MOVED TO APPROVE AMERICA RECYCLES DAY PROCLAMATION, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

Proclamation accepted by Suellen McElroy and Glenda Anderson.

Arts and Humanities Council Artist of the Month

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

Motion Carried 5:0.

Proclamation accepted by Joann Cartor.

El Jobean Pre-Veteran's Day Remembrance

COMMISSIONER MOORE MOVED TO APPROVE EL JOBEAN PRE-VETERAN'S DAY REMEMBRANCE PROCLAMATION, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

Proclamation accepted by Randy Spence.

Susan Cusack Day

COMMISSIONER D'APRILE MOVED TO APPROVE SUSAN CUSACK DAY PROCLAMATION, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Proclamation accepted by Susan Cusack and Leurette Butler.

National Epilepsy Awareness Month

COMMISSIONER D'APRILE MOVED TO APPROVE NATIONAL EPILEPSY AWARENESS MONTH PROCLAMATION, SECONDED BY COMMISSIONER MOORE.

Motion Carried 5:0.

Proclamation accepted by Susan Cusack and Leurette Butler.

Employee Recognition:

Five Years: Philip Aubin, Public Works; Pamela Bird, Parks Recreation & Cultural Resources; and Michael Martindell, Utilities

Ten Years: Donna Neiswinger, Community Development; and Angelyn Patterson, Parks Recreation & Cultural Resources

Fifteen Years: Wade Byington, Utilities; and Raymond Finizio, Public Works

Twenty Years: Henry Maigret, Public Works

Award Presentations:

Presentation of the Governor's Points of Light Award to Susan Cusack, Charlotte County Epilepsy Support Group - Susan Cusack accepted the award.

Presentation to the Economic Development Office of the 2007 Excellence in New Business Recruitment Award by IT Florida - Ruth Buchanan and Bryon Catlin accepted the award.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

Steven Brown addressed Agenda Item G-1, and asked the Board to hold at least one of the public hearings at a time when more residents can attend.

Kathleen Rohrer spoke in support of Agenda Item J-1 regarding Conservation Charlotte.

Clarke Keller spoke on Agenda Item Z-1 regarding what he feels is a staff gag order on the phosphate negotiations.

Jim Cooper addressed Agenda Item Z-2 regarding items that should or shouldn't be on the website.

Cris Costello addressed Agenda Item Z-2 in support of the continuation of the www.phosphaterisk.com website.

Lynn Siebert voiced support for Agenda Item Z-2 regarding keeping all information public.

Misty Nichols addressed Agenda Item Z-2 in support of keeping the public informed.

Ruth Bromberg spoke on Agenda Item Z-2 regarding the need for open communication with the citizens.

Marvin Medintz spoke on Agenda Item Z-2 regarding the need for open and correct communication with the citizens.

Chairman Loftus announced that a public hearing for the Conceptual Management Plan for Babcock Ranch Preserve will be held on November 28, 2007 from 6:00 PM to 9:00 PM at the Tringali Center, 3460 North Access Road, Englewood.

II. COMMITTEE VACANCIES

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

Affordable Housing Advisory Committee is seeking one member as the Building Industry Representative; term ends March 2009.

Beaches and Shores Advisory Committee is seeking one member to serve as the District 4 representative. Applicant must be a resident of Charlotte County and have an interest in the preservation of beaches and shores. Committee meets first Thursday of each month at 9:00 a.m. in Murdock. Term is for four-years.

Construction Board of Adjustments and Appeals is seeking one member to serve as the alternate on this Board. Must be a member of the construction industry holding a current license. Term will expire in April 2009.

Construction Industry Licensing Board - Seeking a volunteer representing the "Consumer Advocate" category. Volunteer must be a resident of Charlotte County for at least two (2) years and have no financial interest, direct or indirect, in the building trades. Length of term: four (4) years.

Harbour Heights Street & Drainage Unit Advisory Committee is seeking one volunteer to finish a resigned term that expires February 13, 2008.

Northwest Port Charlotte Waterway Unit is seeking five (5) members and one (1) alternate to serve on the committee. Applicants must be residents of the NW Port Charlotte Waterway Unit and have technical knowledge of the program work program.

Punta Gorda Community Redevelopment Agency - Seeking one member. Appointee must be a Charlotte County resident and shall serve for a four (4) year term. The purpose of the Agency is to implement the policies, projects and programs contained in the Punta Gorda Downtown Redevelopment Plan.

Tropical Gulf Acres Street & Drainage Unit Advisory Board - seeking one member. Volunteer must be a resident of Charlotte County and reside within the boundaries of the unit. Length of term: until February 7, 2009.

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

III. REPORTS RECEIVED AND FILED

Minutes for October 27, 2007 Charlotte Harbor-Community Redevelopment Agency Advisory Committee

Minutes for October 12, 2007 Murdock Village Community Redevelopment Agency Advisory Committee

IV. CONSENT AGENDA

**COMMISSIONER MOORE MOVED TO APPROVE CONSENT AGENDA EXCEPT FOR AGENDA ITEM J-1, 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:
Memorandum #1 - Status of Contingency Reserves - FY 06/07
Memorandum #1A - Status of Contingency Reserves - FY 07/08
Memorandum #2 - Total Disbursements for the period October 16
through November 5, 2007 in the amount of \$17,579,529.26
BUDGETED ACTION: None

B. Minutes Division

(1) RECOMMENDED ACTION: Approve minutes for:
October 2, 2007 9:00 AM Roundtable Meeting
BUDGETED ACTION: None

Board of County Commissioners

C. Commission Office

(1) RECOMMENDED ACTION: Approve the reappointment of Ms. Deborah Jamieson as the member-at-large representative on the Historical Advisory Committee for a three year term. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Please appoint Gerald Newell to the vacant position on the Deep Creek Non-Urban Street & Drainage Unit Advisory Committee. This appointment will fill the remainder of Wayne J. Kowalski's term that is to expire in January 2008. Mr. Kowalski resigned on October 1, 2007 due to personal issues. BUDGETED ACTION: None

Commissioner D'Aprile said the proposed replacement of Mr. Kowalski will expire in January 2008, Mr. Newell has applied to fill the remaining term and he has also applied to fill the upcoming three-year term until 2011, and asked if Mr. Newell could be appointed now so they don't have to go through this again in January 2008.

Attorney Knowlton said she'd have to review the resolution because they all have specified terms, it appears to do what the Commissioner is requesting would be changing the resolution, and suggested this go forward as is for now.

Commissioner D'Aprile responded in that case just leave it as it is.

D. Administration

(1) RECOMMENDED ACTION: Approve bids for housing rehabilitation for Montague, Walters, Sanchez, Smith, Hechavarria and Jean-Baptiste. Four of the bids (Sanchez, Smith, Hechavarria, and Jean-Baptiste) to be awarded to J.C. Pilato, and the remaining two (Montague and Walters) to MCS Contracting. BUDGETED ACTION: All funds are from the HOME Again and CDBG programs.

(2) RECOMMENDED ACTION: Approve Board resolution regarding the line items as approved in the 07-08 Budget hearings related to the West Coast Inland Navigation District (WCIND) and the Boaters Improvement Fund. BUDGETED ACTION: None

Resolution 2007-174

E. County Attorney - No Items

F. Budget Office

(1) RECOMMENDED ACTION: a) Approve Budget Amendments Attachment A totaling \$55,679,855 and b) Approve Budget Transfers Attachment B for \$7,133,818. The amendments and transfers impact various funds and are required to complete Fiscal Year 2006/2007 budget closing process. BUDGETED ACTION: None

G. Community Development

(1) RECOMMENDED ACTION: Set two public hearings for the proposed amendments to the Excavation Ordinance (Article XXIII). The first for November 27, 2007 at 2:00 p.m., and the second for December 11, 2007 at 2:00 p.m. thereby electing the second hearing to be heard at a time other than after 5 p.m. in accordance with Section 125.66, F.S. BUDGETED ACTION: None

(2) RECOMMENDED ACTION: Set two public hearings to discuss a proposed Ordinance to amend the Zoning Code to establish a new zoning district titled "Extraction and Mining (EM)," in accordance with Section 125.66, F.S. Requesting that first hearing be held on November 27, 2007 at 2:00 p.m., or as soon

thereafter as it may be heard, and the second for December 11, 2007 at 2:00 p.m., or as soon thereafter as it may be heard, thereby electing the second hearing to be heard at a time other than after 5 p.m. in accordance with Section 125.66, F.S.
BUDGETED ACTION: None

H. Economic Development

(1) RECOMMENDED ACTION: Approve the nominations of Scott Cameron, Connie Duncan and Jackie Zeh to serve on the Southwest Florida Workforce Development Board. BUDGETED ACTION: None

J. Environmental Services

(1) RECOMMENDED ACTION: Approve to direct the Natural Resources Division to begin negotiations of the identified property, Bond Ranch, as part of the Conservation Charlotte Program. BUDGETED ACTION: None

Commissioner Moore said he had no problems with getting appraisals on the Bond Ranch but he will continue to complain about the lack of a system, there are a number of properties that have made it to the short list, their bondable amount of money isn't as much as they'd hoped for, now they're going spend \$6,000 to \$8,000 on two appraisals that may be a waste of dollars, he knows there are other pristine lands available that could have multiple purposes, reiterated they don't have any priorities on what lands should be acquired, and opined they're taking a chance on losing money here.

Commissioner Duffy noted the Bond Ranch was recently sold so only a portion of the property is being considered for Conservation Charlotte but agreed on the need for a better acquisition and appraisal plan.

Chairman Loftus agreed they need to look into this further.

COMMISSIONER MOORE MOVED TO TABLE AGENDA ITEM J-1, SECONDED BY CHAIRMAN LOFTUS.

Commissioner D'Aprile said he wanted to hear from the public and staff before any Board action. Andy Stevens said he'd been advised by the new Ona Mine representative Attorney Waksler they

were still interested in moving forward with either a partial acquisition around the creek or the entire site.

Attorney Geri Waksler said she represents R & D Cattle Ranch, LLC which last week purchased the property R & D Cattle, LLC; they immediately contacted Mr. Stevens and ESLAAC to let them know the transfer had taken place and assure them her client was still interested in moving forward with negotiations, but unlike Mr. Bond, would consider a sale of a portion of the property rather than all of it which would leave ESLAAC more funds for other acquisitions; and urged the Board to approve beginning negotiations.

Commissioner Moore said he wants more details on the property, he's not sure what has been sold as of now, he has concerns because they're running out of money, and opined the Advisory Committee needs to be involved providing a prioritized ranking but said he doesn't see making any change at this point.

Mr. Stevens responded staff can walk the Priority Protection Plan around again, explained it contains key acquisitions that have been on the list for many years, and advised this corridor along Shell Creek is a prime example of that.

Chairman Loftus agreed it's a key acquisition, said the last he'd heard it was the whole ranch that was going to be bought and now to see it would only be a partial acquisition he's not ready to make a decision without further details.

Commissioner Cummings agreed a property acquisition plan exists which explains the requests for appraisals because dollars always matter, and opined ESLAAC would be willing to rank these projects.

Commissioner Moore asked if staff knew their bonding capabilities. Mr. Stevens responded \$47 million. **Commissioner Moore** asked if any of the dollars have been committed. Mr. Stevens said yes \$11 million for Forest Shell Creek and the final payment for Buck Creek which he thought was \$2.4 million.

Bruce Loucks suggested this be deferred for 2 weeks to allow time for the Board to have a full discussion.

COMMISSIONER D'APRILE MOVED TO DEFER AGENDA ITEM J-1 FOR TWO WEEKS, SECONDED BY COMMISSIONER MOORE.

Commissioner Duffy said her priority is getting more scrub jay lands to help with the County-wide Habitat Conservation Plan, and asked if the appraisal would cost less if it applied to only a portion of the property. Mr. Stevens said they would still have to assess the entire site to get an accurate cost per acre. Commissioner Duffy opined staff should have informed the Board about the change to this agenda item before expecting them to vote on this today, asked staff to please keep them more up-to-date in the future, and agreed on the need for a postponement.

Motion Carried 5:0.

K. Facilities Construction and Maintenance - No Items

L. General Services

(1) RECOMMENDED ACTION: Approve the following to Contract #07-008, Charlotte County Renovation & Expansion of the Charlotte County Sports Park Stadium with Hunt/Mathews/Taylor Construction, LLC: a) Guaranteed Maximum Price (GMP) #2 in the amount of \$20,126,006; b) Approve addition of Disaster /Recovery Room in the amount not-to-exceed \$72,000 to be funded by the Tampa Bay Rays; c) Approve \$48,525 for Kitchen Consultant for design and pre-construction; d) Authorize the Chairman to sign associated Contract Amendment; e) Approve CIP Amendment 08-C01, and Budget Amendment 08-A02 to increase the project and fund by \$72,000 for the Recovery Room mentioned above in item B. BUDGETED ACTION: Budgeted amount in FY08 for construction is \$24,165,000 in CIP Charlotte Sports Park Stadium

(2) RECOMMENDED ACTION: Approve award of File #07-437, Reclaimed Water ASR Well, Work Order #70, to Contract #05-042, Engineers of Record, with Malcolm Pirnie, Inc. in the amount of \$298,985. BUDGETED ACTION: Budgeted Amount \$340,000 in CIP c350605 Rotonda Reclaimed Water ASR Well.

(3) RECOMMENDED ACTION: Award Bid #07-450, Sunrise Park - Phase 1, to Bradanna, Inc. of Naples, FL, in the amount of \$972,302. BUDGETED ACTION: Budgeted Amount for this phase is \$1,100,000.

(4) RECOMMENDED ACTION: a) Approve ranking of firms for Request for Proposal #07-454, Engineering Consulting Services-Solid Waste Projects: 1st - Camp Dresser & McKee (CDM); 2nd - SCS Engineers; and 3rd - PBS&J; b) Approve start of Negotiations; c) Authorize the Chairman to sign the contract after completion of negotiations; and d) Authorize the County Administrator to approve the contract renewal periods for two (2) additional one-year terms. BUDGETED ACTION: This item is budgeted under the Landfill Department, Engineering Services account line in the amount of \$303,000 for FY07/08.

(5) RECOMMENDED ACTION: Award Bid #08-001, Peachland Boulevard Sidewalks, to Enviro Construction, Inc., of Port Charlotte, FL, in the amount of \$1,158,641.34. BUDGETED ACTION: The FY08 budget has \$1,900,000 available for this contract in project c410301, Sidewalks/Schools and Missing Links. The project total is \$5,700,000.

(7) RECOMMENDED ACTION: Award Sole Source Purchase #08-055, Jail Intelligent Automation (hereafter, I/A) and Network 8000 Upgrade, to Tekplan Solutions, of Fort Myers, FL, in the amount of \$126,600. BUDGETED ACTION: Budget amount for HVAC repairs at the Jail is \$210,972.00

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

M. Human Resources - No Items

N. Human Services

(1) RECOMMENDED ACTION: Approve a) Resolution certifying that Charlotte County Habitat for Humanity, Inc.'s program is consistent with local plans and regulations including the Comprehensive Plan of Charlotte County; b) Approve Loan Consolidation Agreement and Promissory Note to Habitat for Humanity; and c) Authorize Chair to sign, after review by the County Attorney's Office, both documents. BUDGETED ACTION: None

Resolution 2007-175 and Agreement 2007-071

P. Information Technology - No Items

Q. Parks, Recreation and Cultural Resources

(1) RECOMMENDED ACTION: Approve and authorize the Chair to sign Addendum to Museum Society Agreement. BUDGETED ACTION: Budgeted within the Historical Division operating budget.

Addendum to Agreement 2003-036

(2) RECOMMENDED ACTION: Approve and authorize the Chair to sign a Partnership Agreement between the County and the State Department of Agriculture and Consumer Services, Division of Forestry regarding timber management. BUDGETED ACTION: None

Agreement 2007-072

R. Public Safety

(1) RECOMMENDED ACTION: Set a Public Hearing for December 11, 2007, at 10:00 a.m., or as soon thereafter as may be heard, to amend the existing Animal Control ordinance to allow changes of fee schedules by resolution. BUDGETED ACTION: None

S. Public Works

(1) RECOMMENDED ACTION: Set a public hearing for November 27, 2007, at 10:00 a.m., or as soon thereafter as may be heard, to consider an ordinance to change the method of assessment in the Harbour Heights Street & Drainage MSBU as well as making some other minor modifications to bring it into compliance with other MSBUs. The proposed change regarding assessments would modify the assessment method used to compute non-ad valorem assessments from one based on the front footage of each parcel to the Equivalent Residential Unit (ERU), as defined in Chapter 4-6, Article 1, of the Charlotte County Code. These proposed changes necessitate amending the governing ordinance. BUDGETED ACTION: Recording fees of approximately \$44 are available in the Harbour Heights Streets and Drainage MSBU.

(2) **RECOMMENDED ACTION:** Set a public hearing for November 27, 2007, at 10:00 a.m., or as soon thereafter as can be heard, to consider an ordinance to change the method of assessment for the Harbour Heights Waterway MSBU as well as making some other minor modifications to bring it into compliance with other MSBUs. The proposed change regarding assessments would modify the assessment method used to compute non-ad valorem assessments from one based on the front footage of each parcel to the Equivalent Residential Unit (ERU), as defined in Chapter 4-6, Article 1, of the Charlotte County Code. These proposed changes necessitate amending the governing ordinance. **BUDGETED ACTION:** Recording fees of approximately \$44 are available in the Harbour Heights Waterway MSBU.

(3) **RECOMMENDED ACTION:** Request that the Board of County Commissioners approve, and authorize the Chairman to sign, an interlocal agreement between the City of Punta Gorda and Charlotte County to design, permit, and construct Shreve Street and Pompano Terrace intersection improvements. The City of Punta Gorda has already approved this agreement. **BUDGETED ACTION:** Project is funded in the Road Improvements fund. CIP project c410508, US 41/Pompano/Shreve Intersection Improvements. Project total is \$501,000.

Agreement 2007-073

(4) **RECOMMENDED ACTION:** Request the Board approve and authorize the Chairman to sign Florida Department of Environmental Protection (FDEP) Agreement No: 07CH1 for funding assistance with annual monitoring associated with Knight Island beach renourishment **BUDGETED ACTION:** The FY08 budget contains \$297,000 for monitoring in the Stump Pass Beach Renourishment Unit. CIP project C390404 Stump Pass Maintenance Dredge, project total \$17,265,000.

Grant 2007-041

T. Real Estate Services

(1) **RECOMMENDED ACTION:** Resolution approving and authorizing the Chairman to execute a grant of a Temporary Construction and Access Easement to Peace River Island, L.L.C., to be located in a certain portion of the 100' wide road right-of-way known as Peace

Island Drive (formerly known as Humphreys Boulevard), located in Bay Shores Subdivision, for the purpose of constructing a bridge with necessary appurtenances. BUDGETED ACTION: None

Resolution 2007-176

(2) RECOMMENDED ACTION: Approve the attached Resolution approving the release of a portion of a canal maintenance easement, located in Port Charlotte Subdivision, Section Ninety-Five, and further authorizing the Director of Real Estate Services to execute the County Deed releasing said portion of said easement. (Owners: John T. and Lori Majka) BUDGETED ACTION: None

Resolution 2007-177

(3) RECOMMENDED ACTION: Approve the attached Resolution authorizing the Chairman of the Charlotte County Board of County Commissioners to approve the agreement for exchange of the County's interest in certain platted lots for the interest in certain platted lots all located in Charlotte County, Florida, owned by Charlotte County Habitat for Humanity Inc. BUDGETED ACTION: Approval required for estimated cost for recording fees.

Resolution 2007-178

V. Tourism Development - No Items

W. Utilities

(1) RECOMMENDED ACTION: Approve a Resolution adopting a revised Charlotte County Utilities Credit and Collection Policy. BUDGETED ACTION: None

Resolution 2007-179

(2) RECOMMENDED ACTION: Approve Resolution which appoints the County Administrator as Authorized Officer to approve Declaration of Official Intent from Florida Department of Environmental Protection (FDEP). BUDGETED ACTION: Total Amount of SRF loan Budgeted for this MSBU project is \$1,900,000.

Resolution 2007-180

X. Building & Construction Services - No Items

Y. Other Agencies - No Items

RECESS: 10:10 AM - 10:22 AM

Andrew Baker presented a brief video highlighting the present and future updates to the Sports Park Stadium.

VI. PUBLIC HEARING AGENDA - 10:00 AM (Proofs of Publication were in Order.)

(1) Community Development - Conduct a public hearing and approve an ordinance reducing certain commercial impact fees to the 1998 commercial impact fee schedule. As directed by the Board of County Commissioners at the October 23rd BCC meeting, staff has drafted an ordinance to reduce the 2006 commercial impact fees for a period of twelve (12) months.

Deputy County Attorney Daniel Gallagher explained as directed by the Board the proposed draft ordinance reflects the rollback of commercial impact fees to 1998. Attorney Knowlton summarized the proposed ordinance reduces all commercial impact fees. Attorney Gallagher concurred.

Commissioner Cummings stated he is very reluctant to make this change without knowing there is a clear nexus and public benefit addressing businesses that meet their economic development criteria.

Chairman Loftus agreed on the need to encourage economic development and diversity due to the importance of the building trade in this County, and said he does have a problem with the economic development criteria where the state requires the use of out-of-state employees. **Commissioner Cummings** concurred, and said he wants clear criteria established prior to a decision.

Attorney Gallagher commented on the number of building permit applications that have been issued over the past few years for commercial projects of 50,000 square feet or less - 113 in 2005, 123 in 2006, and 54 in 2007.

Commissioner D'Aprile said it's obvious economic development needs stimulation but opined the building industry and economic development work hand-in-hand, advised he wasn't aware of the decrease in commercial building permits, commented on the daily telephone calls regarding the but said he hopes commercial builders will take advantage of the savings from lower impact fees thereby creating more employment, asked the Board to give this 12 months to see what happens, and said if it doesn't work at least they gave it a chance.

Chairman Loftus asked how many building permits were issued for projects over 50,000 square feet, and if all commercial impact fees would be rolled back. Attorney Gallagher advised that there had been three to date, and confirmed the ordinance would cover all commercial impact fees.

Tom Rice endorsed including the impact fee rollback for commercial properties, and opined this will send a powerful message to commercial contractors as well as make a positive statement to the County.

Julie Mathis spoke in support of the inclusion of commercial properties in the impact fee rollback ordinance.

Jim Quinn voiced support of the rollback of commercial impact fees but said he has concerns because a majority of the commercial projects the County is looking for will take more than 12 months, and he hoped the Board will also look at changing other impact fees and costs through more efficient County operations.

Judy Jirout voiced her support of the commercial impact fee rollback.

Ron Hill thanked the Board for revisiting the commercial impact fee rollback issue, said he hopes it will work, and as soon they have numbers the Charlotte/DeSoto Building Industry Association (CDBIA) will share that information with the Board.

Bill Truex thanked the Board for their previous vote on the residential impact fee rollback, stated he's already received two new construction inquiries from property owners wanting to

build, and he felt a positive vote on the commercial rollback will make a big impact on the community.

Suzanne Graham stated that prior to implementation of the new impact fees she had considered building a warehouse, noted the old rate was \$3,500 versus the new rate of \$25,000, and she will consider building here again if this is approved.

John Bednerick said the CDBIA supports the Board's previous approval of the rollback of residential impact fees and this proposal to include commercial properties.

COMMISSIONER D'APRILE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

COMMISSIONER D'APRILE MOVED TO APPROVE ORDINANCE 2007-078, SECONDED BY COMMISSIONER MOORE.

Commissioner Moore asked if there was still concern regarding the issue of square footage. Attorney Gallagher explained the Board can decide to limit the reduction to projects of 50,000 square feet or less since they do have data to support the fact that those size projects have dropped by over 50% during the last 12 months. **Commissioner Moore** said he will support the motion.

Attorney Knowlton clarified the current ordinance is across-the-board for all commercial projects with no size restrictions.

Commissioner Moore reiterated he supported this as presented especially since it's what the builders have asked for.

Commissioner Duffy said she supports under 50,000 square feet, and asked if they can amend the motion to do that today if that's what the Board decides to do. **Chairman Loftus** said yes they have the discretion to do that but he has a concern, he's talked with different businesses that want to relocate to this County but these are over 50,000 square foot projects, and he thought they were trying to diversity this County's economic development in order to get some good paying jobs for their citizens.

Commissioner D'Aprile agreed with the Chair, and said he wants his motion to stand as it is but he does wonder how many 150,000 square foot projects will actually come to Charlotte County and where would they put them.

Commissioner Moore agreed with **Commissioner D'Aprile**.

Commissioner Duffy noted these larger developments require road enhancements which is what these impact fees are used for, and asked if the County is shorting themselves. Mr. Loucks responded yes impact fee credits are used for those types of improvements whether they're done by the County or the developer, so the question then becomes a funding shift.

Mr. Loucks summarized if the expense of the improvements required for a development to be approved is greater than the impact fee credits they would have received, the County can still require the developer to make those improvements. **Chairman Loftus** said he wants it on record that this Board agrees that any costs have to be borne by the that particular developer because he doesn't want to put a burden on the taxpayers of this County for additional infrastructure due to growth.

Commissioner D'Aprile asked if sales taxes can be used for infrastructure. **Chairman Loftus** said yes but only for capital improvements not for maintenance. Mr. Loucks clarified the local option sales tax that ends December 31, 2008 can only be used for additional infrastructure improvements not for maintenance, the County already gets sales tax as part of the general budget process and the County can use those sales taxes to fund maintenance or things like that.

Motion Carried 4:1. Commissioner Cummings opposing.

(2) Community Development - Adopt the Transfer of Density Units ordinance

Commissioner Moore said this hasn't been handled right, this is a big issue, and opined they haven't given the public a chance to be as prepared as they could be.

Inga Williams stated this is a reopening of the hearing from October 22, 2007 for the adoption of the Transfer of Density Units (TDU) ordinance; recalled staff brought forward nine items, the Board agreed with eight of those items which required no changes to the ordinance; the item that did require a change was to increase the affordable housing exemption to 220% and that new language is now in the proposed ordinance; there was also a tenth item brought forward at that hearing regarding the sending zone criteria, and staff made changes to the ordinance allowing any land within the suburban area that does not have water or sewer to take density off that property if they are sending all the density off.

The following people spoke in opposition to the proposed ordinance: Percy Medintz (see handout), Penny Riley, Richard Flint (on behalf of the Friends of Cape Haze, the Placida Harbor Club and the position of the citizen members of the TDU Study Committee), Steven Brown (on behalf of the Lemon Bay Conservancy), Misty Nichols (on behalf of the Gasparilla Island Conservation and Improvement Association, the GICIA, and the citizen members of the TDU panel), Lynn Siebert, Ruth Bromberg, John McCurley, Attorney Michael Haymans (on behalf of Gasparilla Marina Owners Progressive Investments, Inc.), Gail Giles, Andy Dodd, and Marvin Medintz.

Attorney Geri Waksler spoke in support the draft ordinance but said she was concerned over the Board's willingness to limit their own ability to waive the terms of the ordinance.

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

Motion Carried 5:0.

Commissioner Moore opined the Board should have the right to hear appeals, said he supports flood elevation, and opined hurricane evacuation is a separate issue.

Commissioner Duffy agreed they shouldn't give up the right to grant TDU waivers, and said she supports citizen involvement but sometimes everyone's opinions can't be included.

Commissioner D'Aprile agreed everyone isn't going to be satisfied, said he has personal concerns about specific situations that could bring about changes to the TDU ordinance, and he can't vote for this today because he needs more time to consider what's best for Charlotte County especially West County.

Commissioner Cummings said he opposed the appeal process when it was put in because it's been abused in the past, agreed evacuation times is an important issue; and commented on the issues of affordable housing, the density cap, and the need to strengthen the language in the Comprehensive Plan regarding the density cap.

Chairman Loftus agreed on the need for the Board to retain the right to hear waiver requests, opined the appellate process was necessary, commended staff for all they'd done, and opined this was a good ordinance.

Commissioner Moore asked if they were supposed to vote on this today. **Chairman Loftus** said yes. **Chairman Moore** responded he's not prepared to vote on this today.

Chairman Loftus asked for a motion to delay to a time certain.

COMMISSIONER D'APRILE MOVED TO DEFER THIS FOR TWO WEEKS, SECONDED BY COMMISSIONER MOORE.
Motion Carried 5:0.

X. CITIZEN INPUT - ANY SUBJECT

Ron Jordan commented on the need for grass mowing along Veterans Boulevard, on the phosphate settlement back in Boston where he's from which took about three years but only cost \$2 million, and opined the phosphate lawsuit now with costs over \$ million is ridiculous.

V. REGULAR AGENDA

Z. Regular Agenda

(1) Budget - Set a public hearing for November 27, 2007 at 10:00 AM, or as soon thereafter as may be hear, to adopt an ordinance

to update the Five Year Capital Improvements Program (CIP) for FY 2007/2008 through FY2012/2013

COMMISSIONER MOORE MOVED TO SET A PUBLIC HEARING FOR NOVEMBER 27, 2007 AT 10:00 AM TO ADOPT AN ORDINANCE TO UPDATE THE FIVE YEAR CAPITAL IMPROVEMENTS PROGRAM, SECONDED BY COMMISSIONER D'APRILE.

Motion Carried 5:0.

(2) Administration - Discussion of County's Phosphate information efforts

Commissioner Duffy explained she brought this forward so the Board could have a discussion and provide direction to staff regarding their position; said the County website currently has posted to it all the documents related to Phosphate but she's referring to another website which is very anti-phosphate that is hooked to the County's website; the County is paying a public relations consultant who's fighting phosphate and anti-phosphate philosophy; opined this is really sending a mixed message; and reiterated she wanted the Board to discuss this and provide direction to the County Attorney.

Commissioner Moore opined there needs to be compromise, and said there isn't a gag order on staff as the public implied.

Commissioner Cummings agreed if there are untruths on the website that should be removed or if staff is saying things that are untrue that should be addressed and resolved, opined the information on PhosphateRisk website isn't attacking this settlement it's a general informational website, and the facts speak for themselves. Commissioner Cummings advised a City Councilman has asked him to arrange for him to go on the same helicopter tour that he thought each of them went on so is he supposed to tell him no, they have citizen groups asking them for this information are they supposed to tell them no, the website is now a public document so anyone asking for it has a right to it but during negotiations he's not going to give away the chips before the game is over, and recalled there have been outside personal attacks on Attorney Knowlton's integrity but no one said anything because they're in negotiations and everyone knows the outcome is what matters. Commissioner Cummings said he can't image why they would ever deny the public any information, he did

not feel they should be reducing their public information campaign, and opined their job is to protect that and facilitate making it as easy as possible for the public to get it.

Commissioner Moore agreed what happened to Attorney Knowlton was totally inappropriate, and opined they all need to act like professionals during this process.

Commissioner D'Aprile agreed with all the other Commissioners' comments, asked why he wasn't made aware of the Army Corps of Engineers' study, and why comments about this situation were quoted in a New York paper. **Commissioner D'Aprile** stated this Board must deal with only facts because that's what he must use when making his decision on anything, this fight started out regarding this industry creating problems for their environment but Charlotte County shouldn't be funding a majority of the entire fight, said he wonders why the state isn't involved in protecting our environment, and opined what needs to be solved here is communication between the phosphate industry and Charlotte County.

Commissioner Duffy stated until they make a decision they will continue to have information blowing around, she didn't feel they should be taking anyone else up for helicopter tours right now, they need to continue to try to be objective, they should continue to put everything on their own website such as whenever they have a new draft of this agreement it should go right out there, they finished their negotiations yesterday afternoon, she was sure the County Attorney will have a copy of the last draft for everyone as soon as she receives it, and she hoped they will be able to come to a decision at their meeting next Tuesday afternoon.

Chairman Loftus said he believes very strongly that while they're in negotiations they need to stay silent on the outside, he wasn't happy with the issue regarding the New York Times because he felt they should have stayed silent on it, and agreed with **Commissioner D'Aprile** on that.

Commissioner Cummings commented on the Ona EIS referenced in the newspaper versus an area-wide EIS.

Commissioner D'Aprile said he's more concerned about the dollars and cents right now, and he supports doing an area-wide EIS but not paying for it.

Commissioner Duffy said all the parties and counties were willing to take a look into having an EIS study, they would give it one year - from the time they sign the agreement up until the first anniversary, once they see the Ona EIS they can evaluate how comprehensive it is and then how much more do they need to do because to do an entire area-wide EIS would cost about \$8 million, Mosaic said they'd support it and contribute toward it but they won't pay for the whole thing and probably not even half; noted they don't even know if the Army Corps will even allow it; and the biggest issue is that any EIS must study all impacts of urban development as well as agriculture and phosphate mining.

Commissioner Duffy stated there is no intent to keep the public out of this but in the private sector when you negotiate anything you don't do it in public and that's why they've been very careful. **Commissioner Duffy** said she took **Commissioner Cummings'** list to the whole committee last week where they discussed each item, and asked if they got him everything he wanted would he then support it. **Commissioner Cummings** responded he's said for the past half dozen years he would support it but the proposal that has always been the goal of this Board is quite frankly a totally different approach, what they had insisted on was they were going to have a comprehensive well-informed solution to the issue, they were going to do an area-wide EIS, and they were going to have an effective natural resource management plan, yet what they're looking at now is a small set of incremental improvements.

Commissioner Cummings said if they're going to use this arbitration approach which he isn't advocating under the misguided notion that it's going to save them money there needs to be a stand-down provision, and the recordation issue has to have it, they've done it with the Altman Tract they can do it here.

Commissioner Moore opined **Commissioner Cummings** doesn't ever intend to resolve this battle because the benchmarks he's set cannot and will not be met by the phosphate industry.

Commissioner D'Aprile said the Army Corps are experts in their studies, opined they should sue them to get the EIS study thereby forcing them to do the job they're responsible for and not the County all the time; said he wants to find out if one or all three of the culprits - mining, the building industry, or the farming industry, are responsible because if they are then the County needs to control the impact to their water supply; their water supply and the Peace River are the most important things to him; and he can't support spending more money unless whoever is responsible does their part or their share as well.

Attorney Knowlton said she needed more direction, she got no helicopter tours, no website but does that mean no website update or does the Board want to delete the PhosphateRisk website, but what about the press and public information sharing, and summarized her understanding is this is basically for the next week until the Board takes action. Attorney Knowlton said they also have a request she hasn't passed on yet that the North Port City Council wants information, and asked what the Board wants her to do - should she just give them the agreement or does the Board want her to discuss it with them, she needs more direction. **Commissioner Duffy** said she can go to a meeting tomorrow to go over the terms of the agreement if that's necessary. Mr. Loucks opined the question was more general in nature, they get phone calls at the staff level all the time, and asked the Board to help them regarding public information requests and those kinds of situations.

Chairman Loftus said his concern is that during the negotiation this next week that whatever documents are out there are there because they're public documents but other than that he didn't feel they should be going to the press.

Commissioner D'Aprile agreed with the Chair.

Commissioner Duffy asked if they can put the version they get today out on the website.

Attorney Knowlton clarified the document is ready for distribution, she will circulate it to all the Board members this afternoon, and then post it on the County website. Attorney Knowlton explained the idea is this will be brought back at the Land Use meeting on November 20, 2007 at whatever time the Board

wants, and the format will follow previous Board direction which was to have the experts here followed by public input. (Board consensus.) (Discussion continued regarding the issue of public information.)

Chairman Loftus said they need to resolve the issue of the website, and summarized it will just be updated with the current version. Commissioner Duffy agreed, and clarified that's the document they'll get today.

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 (Continued)

Olive Johnson said she lived at the corner of Cochran and Lakeview, explained the intersection/street improvements are severely restricting her access to and from her property, she's a senior citizen and this has been very hard on her, and she'd called Public Works but received no help. Chairman Loftus asked Mrs. Johnson for her address, and said staff will get an answer back to her.

Jack Donkel reviewed his handout regarding additional address corrections needed in West County,

Randy Spence commented on suggested problem-solving methods and the need to protect Charlotte County's environmental assets.

Gail Giles commented on the need for an area-wide EIS because this will affect our community for many lifetimes to come.

AA. County Administrator - No items

BB. County Attorney - No items

CC. Commissioner Comments:

Commissioner D'Aprile commented on the request to Mr. O'Kane from the Section 20 POA in Deep Creek to form a new

committee for the Mid-Charlotte Stormwater District MSBU concerning the DeSoto ditch.

Commissioner Duffy commented on the "Paint Your Heart Out" project, on the problems in District 5 due to the increasing number of homeless people, and suggested looking at Sarasota County's ordinance which was being reviewed by Attorney Knowlton.

Commissioner Cummings commented on a straw-poll regarding continuing the phosphate challenge in order to protect the Peace River watershed from further contamination.

Chairman Loftus said he received a letter from the Florida Department of Environmental Protection in reference to developing a watershed management plan, they asked that someone from Charlotte County participate, and if there is no objection he will volunteer. (Board consensus.)

ADJOURNED: 1:27 PM

Signature on file in Commission Minutes
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes
Deputy Clerk

/ksm