

BOARD OF COUNTY COMMISSIONERS

February 23, 2010

A meeting was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida.

Members present were: Chairman Starr, Commissioner Cummings, Commissioner Loftus, Commissioner Duffy, County Administrator Baltz, County Attorney Knowlton, Chief Deputy Board Services White, Minutes Supervisor Manley. The following members were absent: Commissioner Skidmore

The meeting was called to order at **6:00 PM.**

Invocation was given by Pastor Dana Narring, MDivinity Faith Lutheran Church, followed by the Pledge of Allegiance.

Changes to the Agenda:

Deletion #1: Requested by: Attorney's Office - VI. (4) 6:00 PM Public Hearing - **RECOMMENDED ACTION:** Cancel Public Hearing regarding Animal Control code amendments as legal issues have arisen regarding a particular conflict with State law.

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

Proclamations - Commissioner Adam Cummings

Great American Cleanup Day, March 6, 2010, Proclamation.

COMMISSIONER LOFTUS MOVED TO APPROVE GREAT AMERICAN CLEANUP DAY, MARCH 6, 2010, PROCLAMATION, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

The Proclamation was accepted by Belinda Anderson, Coordinator of Keep Charlotte Beautiful.

Guardian ad Litem Month, the month of March 2010, Proclamation.

COMMISSIONER LOFTUS MOVED TO APPROVE GUARDIAN AD LITEM MONTH, THE MONTH OF MARCH 2010, PROCLAMATION, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

The Proclamation was accepted by Frank Prado of the Guardian Ad Litem program.

Relay for Life Days, March 13, 2010 and March 14, 2010, Proclamation.

COMMISSIONER LOFTUS MOVED TO APPROVE RELAY FOR LIFE DAYS, MARCH 13, 2010 AND MARCH 14, 2010, PROCLAMATION, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

The Proclamation was accepted by Louis Long and Charles Dever.

Sun Safety with the Spring Swing Sun Safety Tour Day, March 8, 2010, Proclamation.

COMMISSIONER LOFTUS MOVED TO APPROVE SUN SAFETY WITH THE SPRING SWING SUN SAFETY TOUR DAY, MARCH 8, 2010, PROCLAMATION, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

The Proclamation was accepted by John DeMuro and Michael Bebeau.

Employee Recognition - None

Presentations

On behalf of Charlotte County Utilities, Terri Kesner will present a rebate check to the Charlotte County Public School Board for their participation in the Toilet Replacement Project, which is partially funded by the Southwest Florida Water Management District's Peace River Basin Board.

Terri Kesner presented a check in the amount of \$17,700 to the Charlotte County Public School Board for their participation in the Toilet Replacement Project, representing a \$100 incentive

rebate for each of the 177 toilets replaced in three (3) schools: Myakka River Elementary, Vineland Elementary, and Liberty Elementary.

Dr. Jerry Olivo, Director, Maintenance Operations, accepted the check on behalf of the Charlotte County School Board.

I. CITIZEN INPUT - AGENDA ITEMS ONLY

John Hitzel spoke to agenda item T-2.

II. COMMITTEE VACANCIES

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

Charlotte Harbor Community Redevelopment Agency Advisory Committee - is seeking one volunteer to serve as the Member at Large.

Deep Creek Street & Drainage Unit Advisory Committee - is seeking one volunteer to finish an unexpired term. This term expires January 31, 2011. Transportation Disadvantaged Local Coordinating Board (LCB) - is seeking one individual to voluntarily serve on the LCB Board. The purpose of the LCB is to identify local service needs and to provide information, advice, and direction to the Community Transportation Coordination of service to be provided to the transportation disadvantaged. The position is for a person who is recognized by the Florida Association for Community Action (President), representing the economically disadvantaged in the county. Your letter or email of interest stating the position for which you are qualified to represent should be sent to: Charlotte County-Punta Gorda MPO, 25550 Harbor View Road, Suite 4, Port Charlotte, FL 33980. Fax: 941-883-3534 Email: office@ccmpo.com

III. REPORTS RECEIVED AND FILED - None

IV. CONSENT AGENDA

COMMISSIONER LOFTUS MOVED TO APPROVE CONSENT AGENDA, EXCEPT AGENDA ITEMS E-1 AND T-2, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

Clerk of the Circuit Court

A. Finance Division

(1) RECOMMENDED ACTION:

Approve Clerk's Finance Memorandum. BUDGETED ACTION: None

Memorandum #1 - Status of Contingency Reserves - FY 08/09

Memorandum #1A - Status of Contingency Reserves - FY 09/10

Memorandum #2 - Total Disbursements for the period February 2, 2010 through February 12, 2010 in the amount of \$7,771,949.70.

B. Minutes Division

(1) RECOMMENDED ACTION: BUDGETED ACTION: None required

11/17/09 9:00 AM BCC Regular/Land Use Meeting

11/23/09 9:00 AM BCC Pre-Agenda Meeting

11/23/09 1:30 PM BCC Workshop

11/24/09 9:00 AM BCC Regular Meeting

11/24/09 2:00 PM Executive Session

12/07/09 9:00 AM Pre-Agenda Meeting

12/08/09 9:00 AM BCC Regular Meeting

12/11/09 9:00 AM BCC/PG Joint Meeting

12/15/09 9:00 AM BCC Regular/Land Use Meeting

01/07/10 2:00 PM BCC Budget Procedures Workshop

01/11/10 9:00 AM Pre-Agenda Meeting

Board of County Commissioners

C. Commission Office

(1) *RECOMMENDED ACTION*: Approve resolution supporting amendments to Chapter 381 of Florida Statutes to reduce the required length of operating permits for aerobic treatment units from two years to one year. *BUDGETED ACTION*: None

Resolution 2010-011

(2) *RECOMMENDED ACTION*: Approve appointment of Robert Kueny to serve as the Suncoast Blvd. Street & Drainage Unit Representative on the Mid-Charlotte Stormwater Utility Unit. *BUDGETED ACTION*: None

(3) *RECOMMENDED ACTION*: Approve the re-appointment of Art Hanson to continue serving on the Placida Street & Drainage Advisory Committee. This is a three year term effective immediately and expiring February 12, 2013. *BUDGETED ACTION*: None

D. Administration

(1) *RECOMMENDED ACTION*: Advice and consent to the appointment of Pamela Stein as Human Resources Director. *BUDGETED ACTION*: None.

(2) *RECOMMENDED ACTION*: Approve the addition to the Administrative Code -Charlotte Sports Park Suite Ticket Allocation Policy & Procedure. *BUDGETED ACTION*: None.

E. County Attorney

(1) *RECOMMENDED ACTION*: Request the Board approve a Resolution supporting Senate Bill 610. *BUDGETED ACTION*: None.

Chairman Starr explained what Senate Bill 610 represents and the consequences, and opined it would be more beneficial to the citizens of Charlotte County if the Board of County Commissioners remained the negotiator.

Attorney Knowlton advised the item was requested by the Sheriff and stated that St. Lucie County is the only other county supporting the Senate Bill.

Commissioner Cummings opined it is more appropriate that the deputies bargain with the Sheriff and other constitutionals to do the same.

COMMISSIONER LOFTUS MOVED TO APPROVE RESOLUTION 2010-012, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 3:1. CHAIRMAN STARR OPPOSING.

(2) **RECOMMENDED ACTION:** Set an Executive Session for March 9, 2010 at 2:00 p.m. in the Charlotte County Attorney's Office Conference Room to discuss strategy and related litigation expenditures concerning the lawsuit captioned William E. Clement v. Charlotte County; Case No. 07-926-CA. **BUDGETED ACTION:** None required.

(3) **RECOMMENDED ACTION:** Set a Public Hearing on March 9, 2010, at 10:00 a.m., or soon thereafter, to consider Adopting an Ordinance Creating the Little Gasparilla Fire Services MSBU. **BUDGETED ACTION:** None required.

F. Budget and Administrative Services

(1) **RECOMMENDED ACTION:** a) Approve the attached application to the West Coast Inland Navigation District (WCIND) for funds in the amount of \$50,000 for countywide waterway debris removal and appoint Andy Stevens or designee as the County's Liaison Agent for the project and authorize Andy Stevens or designee to sign the application; and b) Approve the attached project agreement for the stated project and authorize the Chairman to sign the project agreement; and c) Approve funds in the amount of \$50,000 for countywide removal of debris from various navigable waterways if the application is approved by WCIND; and d) Approve budget amendment 10-A10 as presented below. **BUDGETED ACTION:** Approve Budget Amendment #10-A10 in the amount of \$50,000 for countywide waterway debris removal. These funds will be reimbursed to the County by the West Coast Inland Navigation District and require no matching funds from the County.

Grant 2010-007

Purchasing

(2) **RECOMMENDED ACTION:** a) Approve Award of Bid #10-077, Annual Supply of Perlite, at the unit prices of \$.296 per lb. to Thatcher Chemical of Florida, of Deland, FL. Term of contract is

to be from date of award through and including December 31, 2010; and b) Authorize the County Administrator to approve the renewal options for up to two additional one-year terms, at the same prices, terms, and conditions, by mutual consent. This is an annual contract for the purchase and delivery of Perlite, a necessary component for the treatment and processing of brown grease at the Charlotte County Utilities facilities. BUDGETED ACTION: Budgeted amount for Perlite is \$116,690 for FY2010. Funding for this expenditure comes from the Utilities' O & M Fund - Chemicals line.

(3) RECOMMENDED ACTION: Approve the attached Resolution authorizing the release of portions of two (2) ten-foot (10') wide utility and drainage easements, located in Port Charlotte Subdivision, Section Twenty-Two, and further authorizing the Senior Division Manager, Real Estate Services Division, to execute the County Deed releasing said portions of said easements. (Owners: Fredrick M. R. and Patricia J. Busche, and Noel E. and Betty E. Summers) BUDGETED ACTION: None

Resolution 2010-013

G. Building & Construction Services - No items.

H. Economic Development - No items.

J. Environmental Services - No items.

K. Facilities Construction and Maintenance - No items.

L. Growth Management

(1) RECOMMENDED ACTION: Approve the DRC-PD-80-4AAAA Preliminary & Final Detail Plan Resolution permitting Gator Apple, L.L.C. to develop the Applebee's restaurant located at 24467 Sandhill Boulevard. BUDGETED ACTION: None (ES 2010-014)

M. Human Resources - No items.

N. Human Services - No items.

P. Parks, Recreation and Cultural Resources

(1) *RECOMMENDED ACTION:* Approve a Resolution providing authorization for artisans and handcrafters to camp at Bayshore Live Oak Park for the 14th Annual Florida Frontier Days Festival, March 24-27, 2010. *BUDGETED ACTION:* None

Resolution 2010-015

Q. Public Safety - No items.

R. Public Works - No items

S. Tourism Development - No items.

T. Utilities

(1) *RECOMMENDED ACTION:* Approve a request exemption from the Landscaping and Buffers Ordinance for the new Operations/Lab building at a Charlotte County Utilities wastewater treatment plant site. The plant site is not visible from any residential area and does not contain any public access buildings. *BUDGETED ACTION:* None. Total landscape exemption savings are approximately \$40,000, plus on-going annual maintenance costs.

(2) *RECOMMENDED ACTION:* Approve to revoke the Emergency Water Usage Rates as of March 1, 2010, and to return to the regular rates as set forth in the most current adopted rate resolution. *BUDGETED ACTION:* None. Reduction in revenues from emergency rates. However, collection of emergency rates is not included in the annual budget.

Chairman Starr pointed out Charlotte County was the only county that passed emergency water usage rates, explained its purpose, and what the average user can expect.

Commissioner Duffy explained why the Emergency Water Rates item was initially brought forward, that fifty percent (50%) of Charlotte County water use is for watering lawns, and that the item was enacted to encourage water conservation.

Commissioner Loftus pointed out that there still exists a drought situation and that Southwest Florida Water Management District (SWFWMD) is continuing its conservation program until June 1st. Ms. Kesner stated that SWFWMD had extended the water

conservation until June 1st and that staff, in anticipation, is repealing emergency water rates. **Commissioner Loftus** expressed concern of the item being a bit premature. Ms. Kesner responded SWFWMD will be repealing their water shortage declaration shortly.

COMMISSIONER DUFFY MOVED TO TABLE THE ITEM, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Cummings explained the utility does not earn a profit and that rates only determine who pays how much.

Commissioner Duffy spoke in support of reducing water rates as soon as possible but opined the Board should wait until SWFWMD repeals their emergency rates.

Chairman Starr said he would not support the motion to table.

MOTION CARRIED 3:1. CHAIRMAN STARR OPPOSING.

Commissioner Cummings commented on the Board's approval of the appointment of Pam Stein as Human Resources Director (Agenda item D-1), and opined it is good to appoint from within when the opportunity is available.

U. Other Agencies - No items.

V. REGULAR AGENDA

Z. Regular Agenda

(1) Commission Office - RECOMMENDED ACTION: Choose by ballot, two (2) people to serve as regular members of the Rotonda West Street and Drainage Advisory Committee. Terms are effective immediately and shall expire February 13, 2013.

Mr. Baltz read the following votes by ballot into the record: Dr. Bill Coy-4 votes; Olga Durham-4 votes; John Cermiglia-0 votes.

COMMISSIONER LOFTUS MOVED TO APPROVE DR. BILL COY AND OLGA DURHAM TO SERVE AS REGULAR MEMBERS OF THE ROTONDA WEST STREET AND DRAINAGE ADVISORY COMMITTEE, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

Commissioner Duffy advised that an oversight was made at the February 9, 2010 meeting resulting in Doug Wallace's name being left off the ballot for consideration of appointment to the Manasota Key Street and Drainage MSTU, and that in order to correct the error it is necessary that there be re-consideration of the February 9, 2010 action and a corrected ballot brought back to the Board.

COMMISSIONER DUFFY MOVED TO RECONSIDER THE ACTION TAKEN AT THE FEBRUARY 9, 2010 MEETING UNDER REGULAR AGENDA ITEM Z-3, TO SELECT BY BALLOT ONE PERSON TO SERVE A THREE YEAR TERM AS A REGULAR MEMBER OF THE MANASOTA KEY STREET DRAINAGE MSTU AND ONE PERSON TO SERVE A TWO-YEAR TERM AS THE ALTERNATE MEMBER ON THIS COMMITTEE. BOTH TERMS EFFECTIVE IMMEDIATELY WITH THE REGULAR MEMBER'S TERM EXPIRING JANUARY 9, 2013 AND THE ALTERNATE'S TERM EXPIRING JANUARY 23, 2012, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Cummings requested further clarification. Attorney Knowlton explained that Doug Wallace sent an email to a Commissioner and a staff person, which inadvertently, through no fault of Mr. Wallace, as he had requested appointment in a timely fashion, was not sent to the BCC staff to put on the agenda.

MOTION CARRIED 4:0.

VI. PUBLIC HEARING AGENDA - 6:00 PM

(1) Public Works - **RECOMMENDED ACTION:** Consider approving an Ordinance adding Woodland Estates aka Harborside Woods to the Burnt Store Village Street and Drainage MSBU.

Dawn Harrison explained the purpose of the agenda item.

Robert Mercer spoke on behalf of Burnt Store Village and Burnt Store Village Property Owners Association, in opposition to the item, gave reasons why, and explained why comments got to Ms. Harrison late.

Robert Hancik, Chairman, S. Burnt Store Road Street and Drainage MSBU, spoke in regard to breaking out Pirate Harbor.

Margaret Varga, President, Burnt Store Lakes Property Owners Association, spoke in regard to street paving and in support of splitting out Pirate Harbor from the MSBU.

James Brown, Burnt Store Lakes resident, agreed with the two previous speakers and spoke in support of the separation of the MSBUs.

Richard Symon, resident of Woodland Estates, spoke in opposition of the agenda item.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 4:0.

Ms. Harrison addressed **Chairman Starr's** inquiry regarding concerns of disparities, how payments are made, the advantage of separating the MSBUs, and explained the need for alignment.

Commissioner Loftus expressed concern regarding the ditch that abuts Woodland Estates and inquired about who will maintain it. Ms. Harrison replied there is no impact to the ditch.

Ms. Harrison fielded questions from **Commissioner Cummings** related to there being different rates within the MSBU, the reason why Woodland Estates would be a part of another MSBU rather than be their own, whether Woodland Estates needs to be attached to another MSBU or can it be separate, and the deadline. Dan Gallagher replied that the deadline had already gone by. **Commissioner Cummings** commented on the base level services of stormwater and road paving for the MSBU.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-010, SECONDED BY COMMISSIONER DUFFY.

Commissioner Cummings explained it will be incumbent that the funds not be co-mingled and be treated separately.

MOTION CARRIED 3:1. CHAIRMAN STARR OPPOSING.

(2) Public Works - **RECOMMENDED ACTION:** Consider approving an Ordinance to remove Pirate Harbor and Woodland Estates aka Harborside Woods from the South Burnt Store Street and Drainage MSBU.

Dawn Harrison explained the purpose of the item.

George Kerler, Robin Leonard, and Ken Ice spoke in support of agenda item VI (2).

Dennis McCullick spoke to agenda item VI (2).

Robert Hanson spoke to agenda item VI (2), stated that his previous comments addressed all three issues and the advisory committee supports that Pirate Harbor have their own separation.

Richard Symon spoke in opposition of being part of the Burnt Store Village and in favor of being their own entity.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 4:0.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-011, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 4:0.

(3) Public Works - **RECOMMENDED ACTION:** Consider creating an MSBU for Pirate Harbor Street and Drainage issues.

Ms. Harrison gave explanation of the agenda item. Attorney Gallagher gave explanation of the deadlines.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-012, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0.

VII. PRESENTATION AGENDA - No items.

VIII. PUBLIC WORKSHOP AGENDA - No items.

IX. BOARD WORKSHOP AGENDA - No items.

X. CITIZEN INPUT - ANY SUBJECT

Douglas Tucker spoke in opposition of requiring citizens to fill out cards in order to speak and commented on agenda item T-2 that was postponed.

Ted Broom requested the Board re-consider agenda item E-1 addressing Senate Bill 610.

Relinda Broom requested the Board re-consider agenda item E-1 addressing Senate Bill 610 and House Bill 417.

Lou Henyecz requested the Board re-consider agenda item E-1 addressing Senate Bill 610 and House Bill 417 and that the Board look at other counties.

AA. County Administrator:

Mr. Baltz commented on Parks and Recreation staff creating an alternative plan for handling skate parks around the county; and stated that shortly the Board would have a recommended outline for an open use model to make those facilities available at no charge to citizens, working with Rotary groups and volunteers.

Mr. Baltz commented on efforts to get a water use permit for Babcock Ranch and requested collective direction from the Board due to some challenges to place it on the agenda, or put together a letter with Ms. Kesner's help.

Commissioner Loftus stated there should be open discussion in regard to the issue. **Commissioner Duffy** said her understanding of the agreement is that Charlotte County would apply for the permit and the water would stay in Charlotte County, expressed concerns with SFWMD and SWFWMD, and welcomed having discussion on the issue.

Commissioner Cummings indicated that SWFWMD and SFWMD have stopped the permitting process; pointed out he had previously warned the County would not be able to get the permit; and explained the requirements.

Chairman Starr expressed concern of \$600,000 having been spent on the issue and the County being no further ahead and of having

to pay the money back to Kitson and Partners (Kitson); stated the region has many water resources at the present time; and opined SFWMD needs to make a decision on issuing the permit.

Commissioner Cummings explained that Kitson, not the County, spent \$600,000; that Charlotte County does not owe Kitson anything; that the County is not being asked to stop pursuit of the permit; and that the County should tell Kitson no if they ask for their money at this point in time.

Mr. Baltz stated that staff has direction to pursue the permit but has encountered challenges, and recommends staff come back with a full presentation at the next Board meeting for detailed discussion and strategy.

Commissioner Duffy stated she is in favor of having a discussion. **Commissioner Loftus** expressed the need to have an estimate of cost per gallon of water. **Commissioner Duffy** stated she is only concerned with the permit at this point in time.

Commissioner Cummings indicated the reason for having it in the Capital Improvements Program is because you are not allowed to bank water in Florida, that a large increment is required to make it work financially, and recommended smaller incremental developments.

(Board Consensus for it to be discussed at a later time.)

Mr. Baltz advised that bids are coming in lower; that staff is going through the budget and Capital Improvement Programs and looking at shifting MPO from Public Works to Growth Management; and discussed moving forward based on recommendations made at the Goal Setting Workshop.

BB. County Attorney: None

CC. Commissioner Comments:

Commissioner Loftus spoke in opposition to the card system because some citizens come in late and agreed more information is needed on Agenda Item E-1.

COMMISSIONER LOFTUS MOVED TO RECONSIDER SUPPORT OF AGENDA ITEM E-1, SECONDED BY COMMISSIONER CUMMINGS.

Commissioner Cummings stated he is willing to reconsider the item but expressed concern with the Board getting involved with the issue; and said he did not recall it coming before the Board in the past.

MOTION CARRIED 4:0.

COMMISSIONER LOFTUS MOVED TO BRING AGENDA ITEM E-1 BACK AT THE FIRST REGULAR MEETING IN MARCH FOR RE-CONSIDERATION. THE MOTION DID NOT RECEIVE A SECOND AND WAS LOST.

Commissioner Loftus requested giving direction to the County Administrator to look at moving forward with the expansions of Edgewater and Placida Roads.

Commissioner Cummings agreed with **Commissioner Loftus**, but mentioned caveats to be explored because of delayed expenses and commented that he is interested in doing more work while prices are low. **Commissioner Duffy** and **Chairman Starr** agreed.

Mr. Baltz said staff is currently working on the Edgewater and Placida road expansions, and outlined three criteria to be used: things that will maximize jobs in the county; additions which are shovel ready; and things that do not add to operation and maintenance costs when completed.

Commissioner Cummings recalled the delay of certain projects to cut expenses but commented the money is still available, and encouraged pursuing those projects while the prices are down where money is already available. Mr. Baltz responded that staff would bring back the strategies that make sense.

Chairman Starr commented on the groundbreaking for the methane plant at the landfill, that he was impressed with everyone finding additional revenue to reduce taxes, what the methane plant would mean to the County, and new revenue sources.

Commissioner Loftus said he would take a bit of credit for the landfill methane issue and commented on his initial involvement.

Commissioner Cummings suggested that the County's ambulance runs could have been an extra source of income.

ADJOURNED: 8:15 PM

Signature on file in Commission Minutes
Chairman

ATTEST:

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

By: Signature on file in Commission Minutes
Deputy Clerk

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