

BOARD OF COUNTY COMMISSIONERS

March 16, 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, Commissioner Skidmore, County Administrator Baltz, Assistant County Attorney Browne, Minutes Supervisor Manley, Minutes Secretary Carleton. The following members were absent: None

The meeting was called to order at **9:00 AM** followed by Pledge of Allegiance.

CHANGES TO THE AGENDA:

Addition #1: - Requested by: Commission Office - Discussion of House Bill 785, Procurement of Commodities and Contractual Services.

Addition #2: - Requested by: Commission Office - Discussion of House Bill 745, Public Records and Public Meetings.

Addition #3: - Requested by: Commission Office - Discussion of House Bill 1471, Renewable Energy; House Bill 1107, Sovereign Immunity.

Addition #4: - Requested by: Commission Office - Discussion of House Bill 1241, Tax on Sales Use, and other Transactions.

COMMISSIONER LOFTUS MOVED TO APPROVE CHANGES TO THE AGENDA, SECONDED BY COMMISSIONER SKIDMORE

MOTION CARRIED 5:0.

Commissioner Skidmore stated that he had handed out a synopsis of seven bills.

A. PLANNING AND ZONING PUBLIC HEARING (Proofs of Publication were in order for all Petitions.)

(1) **RECOMMENDED ACTION (Quasi-Judicial):** Approve an ordinance adopting Petition #Z-09-12-20, amending the Charlotte County Zoning Atlas from Planned Development (PD) to PD. This is a major modification of an existing PD to revise the site plan and conditions of approval. The subject property is located at 3500 Taylor Road, in the Punta Gorda area, containing 50± acres; Applicant: KB Home Fort Myers, LLC; Commission District II. This is a quasi-judicial hearing. **BUDGETED ACTION:** None

(Chairman Starr polled the Board for ex parte disclosures and there were none. Minutes Supervisor Manley administered the oath to prospective witnesses.)

Jie Shao presented Petition #Z-09-12-20 along with a PowerPoint presentation per packet material.

Geri Waksler gave a handout to the Board and spoke on behalf of the Applicant in support of approval.

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

MOTION CARRIED 5:0.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-014, SECONDED BY COMMISSIONER SKIDMORE.

Commissioner Cummings gave a brief history on the petition, stated that zoning should not be granted on a property that is non-existent, that it was previously overturned by the Board after it was opposed by staff, commented on his findings after doing research, and spoke in opposition to the petition.

Commissioner Skidmore asked Ms. Shao to address density issues on the project and asked what options are available. Ms. Waksler stated there is an existing approved plan development for 104 duplex units, gave an explanation for density, pointed out that

when KB Homes purchased the property, it was zoned high density residential, that the County has approached KB Homes about leaving a tract so that there can be a connection for future access when the properties to the east are developed, and commented on a discussion regarding an interconnect as an additional access point to the property. **Commissioner Skidmore** inquired about needing more land for 110 units. Ms. Waksler responded. **Commissioner Skidmore** asked to see the site plan for the project.

Chairman Starr asked about water and sewer on the property. Ms. Waksler explained it had already been installed. **Commissioner Skidmore** inquired about build out timeframes. Stan Edwards of KB Homes advised that a timeframe had not been established and addressed Board inquiries regarding location of offices. **Commissioner Cummings** commented on the aerial photo, pointed out that the development has not occurred as originally envisioned and is not proceeding, and expressed his concerns.

MOTION CARRIED 4:1. COMMISSIONER CUMMINGS OPPOSING.

(2) **RECOMMENDED ACTION (Quasi-Judicial):** Approve an ordinance adopting Petition #Z-09-12-21, amending the Charlotte County Zoning Atlas from Agriculture (AG) to Excavation and Mining (EM), for property located north of Bermont Road (CR 74), south of the DeSoto County line, east of Duncan Road (US 17), and west of SR 31, in the East County Planning District, containing 100.67± acres; Applicant: George and Christina Davis; Commission District I. This is a quasi-judicial hearing. **BUDGETED ACTION:** None.

(Chairman Starr polled the Board for ex parte disclosures and there were none.)

Ms. Shao presented Petition #Z-09-12-21 and gave a PowerPoint presentation per packet material.

Ms. Waksler spoke on behalf of the applicant in support of approval.

Commissioner Skidmore asked about whether the applicant's intentions were the same as previously stated. Ms. Waksler responded in detail.

**COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER SKIDMORE.
MOTION CARRIED 5:0.**

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-015, SECONDED BY COMMISSIONER SKIDMORE.

MOTION CARRIED 4:1. CHAIRMAN STARR OPPOSING.

Commissioner Cummings clarified **Chairman Starr's** reason for opposing the petition. **Chairman Starr** spoke in opposition to saturating the county with more mining operations. **Commissioner Skidmore** encouraged having a conversation in regard to mining operations. There was Board discussion regarding mining and farm ponds.

Commissioner Skidmore clarified that he was concerned with Group III excavations. **Chairman Starr** asked about whether SWFWMD opted the County out of the farm ponds issue. Mr. Ruggieri responded that the County has an agreement with SWFWMD that the County will accept the environmental resource permit as part of an environmental report submittal. **Chairman Starr** suggested asking Mr. Baltz to explore options available for controlling the commercial mines in the County. **Commissioner Cummings** responded that the subject is an important but not urgent discussion. **Commissioner Skidmore** agreed but stated that the subject needs to stay on the radar.

B. REGULAR AGENDA

(1) RECOMMENDED ACTION: a) Select Ranking of Firms from presentations which were held on March 9, 2010, at 3:00 pm before the Board of County Commissioners for Request for Proposal #10-014, Construction Administration Services-ASR Well/Rotonda b) Approve start of negotiations; and c) Authorize the Chairman to sign the contract after completion of negotiations to obtain the services for professional Construction Administration Services related to construction and

FDEP certification of an Aquifer Storage & Recovery (ASR) Well to be located at the Rotonda Water Reclamation Facility (WRF) site. BUDGETED ACTION: Amount Budgeted \$550,000 in CIP project Rotonda Reclaimed Water ASR Wells. Funding for this expenditure is from Utility Connection Fees and SWFWMD Grant funding.

(County Attorney Janette Knowlton replaced Assistant County Attorney Browne for the remainder of the meeting.) Attorney Knowlton clarified that the voting process would start over from the beginning.

Kim Corbett instructed that there was a ballot in each of the Board packets. Commissioner Skidmore noted that he had watched all three presentations. The Board marked their ballots.

Ms. Corbett announced the ranking of firms: Johnson Engineering (1); DMK (2); Malcolm Pirnie (3).

COMMISSIONER SKIDMORE MOVED TO APPROVE THE RANKING OF THE FIRMS, JOHNSON ENGINEERING (1); DMK (2); MALCOLM PIRNIE (3) SELECTED FOR RFP #10-0014, APPROVE THE START OF NEGOTIATIONS, AND AUTHORIZE THE CHAIRMAN TO SIGN THE CONTRACT AFTER COMPLETION OF NEGOTIATION TO OBTAIN THE SERVICES FOR PROFESSIONAL CONSTRUCTION ADMINISTRATIVE SERVICE RELATED TO THE CONSTRUCTION AND FDEP CERTIFICATION OF AQUIFER STORAGE RECOVERY (ASR) WELL TO BE LOCATED AT THE ROTONDA WASTE RECLAMATION WATER FACILITY SITE, SECONDED BY COMMISSIONER LOFTUS.

MOTION CARRIED 5:0.

(2) Requested by: Commission Office - Discussion of House Bill 785, Procurement of Commodities and Contractual Services.

Commissioner Skidmore gave a summary of the House Bill, why he put it on the agenda, suggested that the Board write a letter of support in its current form, indicated that all the House Bills are in current form, and encouraged the Board to continue monitoring the House Bills. Chairman Starr clarified whether the House Bill was sent to the County Attorney for review by Representative Roberson. Attorney Knowlton stated that House Bill 785 is the online submission of sealed bids.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN SUPPORT OF HOUSE BILL 785 TO REPRESENTATIVE CHESTNUT, MEMBERS OF THE REFERRED COMMITTEES, AND THE DELEGATION, SECONDED BY COMMISSIONER LOFTUS.

Chairman Starr opined that when sending letters from the Board, it should be established who they are sent to, opined that the Speaker of the House, the President of the Senate, bill sponsors, and the legislative delegation should each get one, and that each Commissioner should follow up to the legislative delegation with a personal letter.

Commissioner Skidmore commented on keeping an eye on legislative issues, on who the letters should come from, and offered to be the legislative liaison. **Chairman Starr** indicated that a letter from the Board needs to be signed by the Chair, commented on the importance of each Commissioner sending a personal letter to the Representatives, and having a standard plan in place. **Commissioner Skidmore** suggested making Florida Association of Counties aware of the Board's opposition or support. **Commissioner Cummings** stated that in specifying who a letter goes to, there should be a minimum list, commented that it is always better to represent a specific position rather than a specific bill, and mentioned the summary description for House Bill 785. **Commissioner Skidmore** agreed that it is important to reference the Bill as well as the position and to include the Bill number.

Commissioner Cummings stated that it is important to be clear as to what you are supporting. **Commissioner Loftus** stated that it is important to indicate the date of the Bill. **Commissioner Duffy** opined that it is important to note that the Board is voting on the support of the Bills. **Chairman Starr** commented that voting on the Bills would probably be in the form of a resolution. Ms. Knowlton advised that if done in the form of a resolution, it would have to be brought back to the Board, but if voted on today by consensus, staff could do a letter. **Commissioner Cummings** pointed out that the letter needs to be from the Chairman.

MOTION CARRIED 5:0.

(3) Requested by: Commission Office - Discussion of House Bill 745, Public Records and Public Meetings.

Commissioner Skidmore described House Bill 745, gave a summary and reasons he put it on the Agenda, and requested clarification if the Bill includes the expansion of the Executive Sessions. Ms. Knowlton responded that it does not and that it does include a Resolution previously adopted by the Board.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN SUPPORT OF HOUSE BILL 745, SECONDED BY COMMISSIONER LOFTUS.

MOTION CARRIED 5:0.

(4) Requested by: Commission Office - Discussion of House Bill 1471 - Renewable Energy; House Bill 1107 - Sovereign Immunity.

Commissioner Skidmore gave a summary of House Bill 1471.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN SUPPORT OF HOUSE BILL 1471, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Cummings inquired as to how the Bill is different from what the PSC is already allowed to do. **Commissioner Loftus** responded that the PSC is not allowed to get a return on their investment on renewable energy. **Chairman Starr** suggested using the Babcock reference for development of jobs and renewable resources. **Commissioner Duffy** inquired about Senate Bill 1186 as to whether the Board should support it in addition to supporting House Bill 1471. **Commissioner Skidmore** suggested bringing Senate Bill 1186 back at the next meeting. **Chairman Starr** commented that Senate Bill 1186 is the companion bill to House Bill 1471.

MOTION CARRIED 5:0.

Commissioner Skidmore gave a summary of House Bill 1107. Ms. Knowlton outlined the purpose of the Bill by saying that it raises the statutory cap from \$100,000 to \$250,000, effective July 1, 2011 and thereafter every year by the CPI; it authorizes the county to settle claims in excess of the statutory cap, and in excess of any insurance proceeds without having to do a claims bill and recommended the Board oppose it.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN OPPOSITION TO HOUSE BILL 1107, SECONDED BY COMMISSIONER LOFTUS.

MOTION CARRIED 5:0.

(5) Requested by: Commission Office - Discussion of House Bill 1241 - Tax on Sales, Use, and Other Transactions.

Commissioner Skidmore gave a summary of House Bill 1241.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN OPPOSITION TO HOUSE BILL 1241, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Duffy clarified the purpose of the Bill. **Commissioner Skidmore** responded in detail. **Chairman Starr** mentioned that the County had been asked to join several other counties in a class action lawsuit to collect sales tax on hotel rooms. **Commissioner Skidmore** indicated the Bill would permanently allow online travel companies to remit taxes on the wholesale price of a hotel room, circumvent the law, and negate the class action lawsuit. **Chairman Starr** commented that he has not had time to review the Bill. **Commissioner Skidmore** suggested bringing the Bill back another time but to watch for emails from Ms. Shoemaker. **COMMISSIONER SKIDMORE WITHDREW HIS MOTION AND COMMISSIONER LOFTUS WITHDREW HIS SECOND.** **Commissioner Duffy** indicated that she had received an email from Ms. Shoemaker that morning saying to oppose the Bill and that it was coming from the Florida Association of Counties. **Chairman Starr** opined that there still had not been enough time to review the Bill and that the Board should talk to the legislator introducing the Bill. **Commissioner Skidmore** indicated that the Bill would be heard at 8:15 a.m. the next day. **Commissioner Loftus** requested to vote on it now since it is being heard tomorrow.

COMMISSIONER SKIDMORE MOVED TO SEND A LETTER IN OPPOSITION TO HOUSE BILL 1241, SECONDED BY COMMISSIONER LOFTUS.

MOTION CARRIED 4:1. CHAIRMAN STARR OPPOSING.

CITIZEN INPUT - ANY SUBJECT - NONE

AA. County Administrator:

Mr. Baltz indicated that the budget survey is up and running on the County website in order to solicit input from the citizens.

BB. County Attorney: NONE

CC. Commissioner Comments: NONE

RECESS: 10:10 AM to 1:00 PM (will re-convene at 1:00 PM for Executive Session.)

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