

**BOARD OF COUNTY COMMISSIONERS**

**April 20, 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, Assistant County Administrator Sandrock, Assistant County Attorney Rooney, Minutes Supervisor Manley. The following members were absent: None

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

**(Commissioner Cummings was not present for this portion of the meeting.)**

**Changes to the Agenda:**

**Deletion #1:** Agenda Item A-10: **RECOMMENDED ACTION:** Approve a resolution to repeal Resolution 2004-212, which provided bylaws for the Manasota and Sandpiper Key Community Plan Advisory Committee, and adopt a Community Planning Advisory Committee Procedures Manual, which shall be used as the new bylaws for the Advisory Committee. Applicant: Charlotte County Board of County Commissioners. **BUDGETED ACTION:** None.

**Deletion #2:** Agenda Item A-12: **RECOMMENDED ACTION:** Adopt a Resolution to appoint staff as the Manasota Key Architectural Review Committee. **BUDGETED ACTION:** None.

**Commissioner Skidmore** asked to add Agenda Item A-13 - discussion and possible direction of the Charlotte County Utilities Wastewater expansion.

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

**MOTION CARRIED 4:0.**

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

(1) RECOMMENDED ACTION (Legislative): Approve an ordinance adopting Petition #PA-10-01-02, amending the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor, for property located at 448 N. Spring Lake Boulevard, in the Port Charlotte area, containing 0.23± acres; Applicant: MTL Real Estate Investment, LLC; Commission District IV. This is a Legislative hearing. BUDGETED ACTION: None.

Roxanne Reed presented Petition PA-10-01-02 per packet material furnished.

(Commissioner Cummings was present for the remainder of the meeting.)

(Chairman Starr advised it is a Quasi-Judicial hearing and polled the Board for ex parte and there was none. Minutes Supervisor Manley administered the oath to all prospective witnesses.)

Attorney Rob Berntsson confirmed that all testimony previously given by Ms. Reed is also under oath. Ms. Reed replied affirmatively. Attorney Berntsson spoke on behalf of the petitioners.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-019, SECONDED BY COMMISSIONER DUFFY.**

**MOTION CARRIED 5:0.**

(2) RECOMMENDED ACTION (Quasi-judicial): Approve an ordinance adopting Petition #Z-10-01-03, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial General (CG), for property located at 448 N. Spring Lake Boulevard, in the Port Charlotte area; containing 0.23± acres; Applicant: MTL Real Estate Investment, LLC; Commission

District IV. This is a Quasi-judicial hearing. BUDGETED ACTION: None.

Attorney Rooney advised that Petition #Z-10-01-03 is a companion rezoning to #1 and there was no additional staff input.

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-020, SECONDED BY COMMISSIONER SKIDMORE.**

**MOTION CARRIED 5:0.**

(3) RECOMMENDED ACTION (Legislative): Approve an ordinance adopting Petition #PA-10-01-04, amending the Charlotte County Comprehensive Plan from Commercial Corridor to Medium Density Residential, for property located northeast of Taylor Road, northwest of Tuscany Isles Drive, and southeast of Technology Boulevard, in the Punta Gorda area, containing 9.99± acres; Applicant: Newfoundland Five, Inc.; Commission District II. This is a Legislative hearing. BUDGETED ACTION: None.

(4) RECOMMENDED ACTION (Quasi-judicial): Approve an ordinance adopting Petition #Z-10-01-05-TDU, amending the Charlotte County Zoning Atlas from Commercial General (CG) and Agriculture Estates (AE) to Residential Multi-family 10 (RMF-10), for property located northeast of Taylor Road, northwest of Tuscany Isles Drive, and southeast of Technology Boulevard in the Punta Gorda area, containing 19.64± acres; Applicant: Newfoundland Five, Inc.; Commission District II. This is a Quasi-judicial hearing. BUDGETED ACTION: None.

(5) RECOMMENDED ACTION: Approve a resolution transferring ninety-nine units of density to a receiving zone owned by Newfoundland Five, Inc. BUDGETED ACTION: None.

**(Chairman Starr advised it is a Quasi-judicial hearing, polled the Board for ex parte disclosures, and all Board members acknowledged communication via email for Item #4. Minutes Supervisor Manley administered the oath to prospective witnesses.)**

Steve Ellis presented both petitions #PA-10-01-04 and #Z-10-01-05-TDU based upon packet material furnished, commented on

corrections, and advised that Planning & Zoning staff recommend approval with conditions stated.

**Commissioner Cummings** requested clarification on inconsistencies that would not be changed at this time, to which Mr. Ellis responded.

Attorney Geri Waksler spoke on behalf of petitioner and requested approval.

Attorney Waksler clarified for **Commissioner Duffy** that the location is at old Burnt Store Road and that water and sewer is already available at the KB Home site in the City of Punta Gorda.

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

**MOTION CARRIED 5:0.**

Attorney Rooney advised that there will be three votes.

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-021, ORDINANCE 2010-022, AND RESOLUTION 2010-025, SECONDED BY COMMISSIONER CUMMINGS.**

**Commissioner Cummings** questioned the depth from Taylor Road to the applicant's property, stating he wants to ensure that it is deep enough for commercial. Mr. Ellis responded it is 300' or more. **Commissioner Cummings** expressed concern regarding addressing turning lanes, school bus stops, and sidewalks mentioned in the email received and that all developments along this corridor need to be flagged. Mr. Ellis responded affirmatively.

Attorney Waksler recalled that the Board previously adopted an Ordinance that requires sidewalks to be built.

**MOTION CARRIED 5:0.**

(6) **RECOMMENDED ACTION (Legislative):** Approve an ordinance adopting Petition #PA-10-01-06, amending the Charlotte County Comprehensive Plan from Low Density Residential to Commercial

Corridor, for property located north of Maryknoll Road, south of the Sarasota County Line, east of Orange Street, and west of Pine Street, in the Englewood area; containing 0.33± acres; Applicant: Everett Munsell; Commission District III. This is a Legislative hearing. BUDGETED ACTION: None

(7) RECOMMENDED ACTION (Quasi-judicial): Approve an ordinance adopting Petition #Z-10-01-07, amending the Charlotte County Zoning Atlas from Residential Single-Family 5 (RSF-5) to Office, Medical and Institutional (OMI), for property located north of Maryknoll Road, south of the Sarasota County Line, east of Orange Street, and west of Pine Street, in the Englewood area; containing 0.33± acres; Applicant: Everett Munsell; Commission District III. This is a Quasi-Judicial hearing. BUDGETED ACTION: None.

**(Chairman Starr advised it is a Quasi-judicial hearing and polled the Board for ex parte disclosures. Commissioner Skidmore acknowledged ex parte communications and that he had already filed his with the Clerk. Minutes Supervisor Manley administered the oath to prospective witnesses.)**

Roxanne Reed presented both petitions based upon packet material furnished and indicated Planning & Zoning and staff recommend approval.

Tom Smith, a planning consultant, spoke on behalf of the petitioner, provided a letter of support from a neighbor which had not previously been included in the packet, and requested approval.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2010-023 AND ORDINANCE 2010-024, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 5:0.**

**Commissioner Duffy** advised the public that the Board actions are comprehensive plan changes, commented on the ramifications of

Amendment 4, and urged citizens to gain additional information about the amendment before going to the polls.

(8) **RECOMMENDED ACTION (Quasi-judicial):** Approve an ordinance adopting Petition #Z-10-01-08, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial Neighborhood (CN). The subject property is located at 16954 Toledo Blade Boulevard, in the Port Charlotte area, containing 0.7± acres; Applicant: Dr. Laura Korman; Commission District IV. This is a quasi-judicial hearing. **BUDGETED ACTION:** None.

**(Chairman Starr advised it is a Quasi-judicial hearing and polled the Board for ex parte disclosures. Commissioner Skidmore advised that he had one communication that had to be filed with the Clerk. Minutes Supervisor Manley administered the oath to prospective witnesses.)**

Jie Shao gave a slide presentation based on packet material furnished, provided a history of the property and contemplated changes to the Toledo Blade Corridor, and advised Planning & Zoning and staff recommend approval.

Alexis Crespo spoke on behalf of the Petitioner, indicated Petitioner is in agreement with the staff recommendations, elaborated in more detail on the proposed changes, and requested approval.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER SKIDMORE MOVED TO APPROVE ORDINANCE 2010-025, SECONDED BY COMMISSIONER LOFTUS.**

**Commissioner Skidmore** elaborated on anticipated changes for creating a commercial node in this area.

**MOTION CARRIED 5:0.**

(9) **RECOMMENDED ACTION (Legislative):** Approve an ordinance amending Chapter 3-5, Article XXIII, Excavation and Earthmoving;

providing for revised reclamation standards. This is a legislative hearing. BUDGETED ACTION: None.

Jeff Ruggieri gave a slide presentation based on packet material furnished, commented that staff is attempting to provide a consistent set of standards, and advised of an additional change that deals with exemption criteria, making a further exemption for agricultural ponds to allow for extra depth where SWFWMD deems appropriate.

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

**MOTION CARRIED 5:0.**

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-026, SECONDED BY COMMISSIONER DUFFY.**

**MOTION CARRIED 5:0.**

(11) RECOMMENDED ACTION: Postpone the Public Hearing to June 15, 2010, at 10:00 a.m. or as soon thereafter as it may be heard, to review the proposed Development Order for the Harborview Development of Regional Impact. BUDGETED ACTION: None.

Mr. Ruggieri presented the item and explained its purpose.

**COMMISSIONER SKIDMORE MOVED TO APPROVE AGENDA ITEM 11, SECONDED BY COMMISSIONER LOFTUS.**

**MOTION CARRIED 5:0.**

(13) RECOMMENDED ACTION: Discussion and possible direction of the Charlotte County Utilities Wastewater Expansion

**Commissioner Skidmore** indicated there had been considerable discussion on the sewer expansion for Area One, commented on the outcry from the public and the timing involved, and suggested the plan be put on hold rather than spend CCU's time and money moving forward at a time when citizens are simply unable to pay for it.

(Administrator Baltz replaced Mr. Sandrock for the remainder of the meeting.)

**COMMISSIONER SKIDMORE MOVED TO GIVE STAFF DIRECTION TO STOP MOVING FORWARD ON PHASE I AT THIS TIME, SECONDED BY CHAIRMAN STARR.**

**Chairman Starr** commented that eventually the area will have to be sewerred, expressed concern on stopping all work on the plan, suggested exploring ways to lessen the cost because it will never get cheaper, agreed the lot situation in this economy is a problem, and opined it would take a congressman to go to congress and ask Corps of Engineers to take over the program.

**Chairman Starr** commented there is no data that septic tanks are polluting the harbor, commented on exploring ways to make the project affordable and partnering with the State of Florida to come up with a logical plan for payment, and spoke in support of the motion, but opined nothing further should be done at this time.

**Commissioner Loftus** commented on the state of the economy, pointed out the mandated issue by DEP and the issue with EPA, commented on the importance of finding funding for the program, opined a more cost-effective sewer system can be done, agreed the project should not be stopped completely, and commented on the importance of working toward a more cost effective system and only put in what is absolutely required at this time.

**Commissioner Skidmore** stated he would amend his motion if the Board leaves today with some type of stoppage, commented on the public hearings being held in July for the MSBUs, on the assessments starting in November, mentioned the unavailability of federal and state funds, expressed concern of the need to forego the implementation of the project this year and work with staff toward a better plan, and commented on the need to leave the meeting with some type of resolution for the citizens.

**Commissioner Loftus** requested more information as to what the repercussions would be if delayed. **Chairman Starr** and **Commissioner Loftus** spoke in opposition of the motion. **Chairman Starr** commented that he wants to give citizens some peace of

mind and wants someone to prove the septic tanks are the problem. (Board discussion continued.)

**Chairman Starr** agreed on the need to put the current plan on hold in order to do more research, commented on forestalling the fixing of septic tanks, and commented on the cost involved.

Terri Kesner reviewed the preliminary report and results previously presented and stated that more testing could be done if it is the wish of the Board.

**Commissioner Cummings** mentioned the plan when approved, commented on people with a fixed income and the drawbacks of delaying the project, mentioned people out of work have a legitimate timing issue, expressed additional concerns, commented on legal frameworks set by Federal and State governments, possible sanctions by the State, and recalled the court action by the State.

**Commissioner Cummings** commented on doing serious market surveys in order to find a price the public is willing to accept, creating a financial plan to make it happen, researching all means of available funding, and encouraged public outreach and lobbying for grant funding.

**Commissioner Skidmore** commented on the number of communications received and the number of citizens affected by the Assessment Plan, and expressed his concerns.

**Commissioner Loftus** spoke in opposition to having the July meeting to establish the MSBU or to charge people money in November and requested Mr. Valasco comment on the studies completed.

Herman Valasco commented on researching swales and canals in the County with funds from the ATU Program, commented on delays in fixing septic tanks in anticipation of the sewer expansion and temporary repairs completed, and mentioned that the East and West Spring Lake area must be watched carefully.

Mr. Valasco addressed inquiries from **Chairman Starr** regarding the management of the septic tanks and ground samples.

**Commissioner Skidmore** expressed desire to not leave the meeting without some type of resolution regarding the stoppage of the sewer project and further clarified the intent of his motion.

Ms. Kesner stated staff would not move forward with any more engineering work until an assessment program is approved. **Commissioner Loftus** requested not having the hearing in July and not charging customers for the assessment in November in order to further research the best way to install central sewer system. **Commissioner Duffy** pointed out that the Board never approved moving forward with the program, expressed concern about sending the wrong message to the citizens, commented that the Board gave direction for staff to go out and get public input, pointed out the need to correct public perception and to continue looking for funding, and spoke in opposition to assessments starting in November.

**Commissioner Cummings** clarified the Board did approve to proceed with the expansion, commented on a permit condition with Manchester Lock, advised communication with the citizens in a straightforward manner, and commented on proceeding with the program.

**Chairman Starr** recalled that the motion was for staff to explore and gather information but did not recall approving the project to go forward, indicated that he does not want the program to stop, only the implementation portion, commented that he wants the stakeholders involved, mentioned not having the hearings, commented on looking for funding sources, indicated he would support the motion, and commented that he would like to give direction to staff and the constituents to find an alternative.

**Commissioner Skidmore** explained the intent of his motion stating that it is to stop the County spending money, engineering and the plan implementation, agreed to give direction to staff to continue working for any and all available funding sources, and to continue having discussions with stakeholders. **Commissioner Duffy** expressed concern about getting the costs down and to find a cheaper alternative. **Chairman Starr** commented on getting the public involved and protecting the Harbor.

Motion to call the question by **Commissioner Skidmore**: 5/0  
Approved.

**MOTION CARRIED 4:1. COMMISSIONER CUMMINGS OPPOSING.**

**COMMISSIONER SKIDMORE** MOVED TO GIVE DIRECTION TO STAFF TO CONTINUE TO SEEK ANY AND ALL AVAILABLE FUNDING SOURCES, WHETHER THEY BE STATE, NATIONAL, OR LOCAL, TO CONTINUE TO HAVE STAFF REFINE THE COST ESTIMATES FOR THE SEWER PROGRAM TO BRING THEM DOWN AS LOW AS POSSIBLE FOR FUTURE IMPLEMENTATION AS WELL AS ASKING THAT WE JOIN TOGETHER AS A BODY TO GO BACK TO THE COMMUNITY AND MEET WITH THE STAKEHOLDERS OF THE NOW DEFUNCT PLAN, AND WORK WITH THEM TO LAUNCH WHATEVER CAMPAIGN IS NEEDED TO BRING ATTENTION TO LEADERS ABOVE, SECONDED BY COMMISSIONER LOFTUS.

**Commissioner Cummings** stated he would support the motion to continue working on the program but expressed concern that the process will begin with a great deal of enthusiasm but will dwindle without a bill.

**MOTION CARRIED 5:0.**

**Commissioner Skidmore** commented on Mr. Ice of Pirate Harbor attending the previous evening's meeting, commented on the financing terms of the defunct sewer expansion, uniform financing, and the Pirate Harbor payment plan.

**Commissioner Cummings** agreed there should be a consistent process, cautioned against consistency in this instance, and commented on flexibility based on individual circumstances.

Mr. Baltz summarized the direction of staff that Charlotte County is still committed to moving forward with a possible phased central wastewater system, clarified that the Public Hearings scheduled for the summer are now off the table, but that the Board is still committed to evaluating and attempting to look at options for doing the program in the future. **Commissioner Skidmore** stated that the Board recognizes that on the horizon there is an issue to sewer, that it is seeking any available assistance from any willing agency, but that there are no immediate plans to begin sewerage. **Chairman Starr** commented on the direction to staff to make the program more affordable, on the management of the septic tank program, on the commitment of the Board to encourage the Dept. of Health to renew the

managed septic tank program, and inquired as to the time line of the managed septic tank program.

Mr. Baltz stated he did not recall any specific time line other than the commitment to a phased wastewater system, summarized his understanding from the Board that it is not turning away from the program, and that staff will continue working toward the program without any public hearings this summer.

**Commissioner Cummings** gave his recollection on the septic tank management program as a combination pilot and monitoring program, and commented that if going forward with pursuing funding sources, there needs to be a specific program and a specific cost in order to apply for a grant, and indicated there must be something in the Capital Improvements Program. **Commissioner Skidmore** suggested giving direction to Mr. Baltz to determine what must be kept in the Plan. **Chairman Starr** commented on having an existing program and getting involvement from the citizens. **Commissioner Loftus** commented on the need to continue looking at the most cost effective system and getting the correct information to the public.

**B. CITIZEN INPUT - ANY SUBJECT**

Dale Watson addressed the sewer issue and commented on the need to get the facts out to the public.

**AA. County Administrator:** NONE

**BB. County Attorney:** NONE

**CC. Commissioner Comments:**

**Commissioner Loftus** agreed with Mr. Watson's comments that the County needs to get the proper information to the public as to what an impaired harbor is.

**Commissioner Duffy** agreed with Mr. Watson's concerns and commented on the inspection program, pointed out that the problem is lack of communication, commented on the elimination of the Communications Department, and opined that there needs to be a reconsideration of the need for a communications person.

*Commissioner Cummings* recalled the managed septic tank program was only to reduce the problem, not eliminate the need for sewers.

ADJOURNED: 11:00 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

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