

BOARD OF COUNTY COMMISSIONERS

September 21, 2010

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

Members present were: Chairman Starr, Commissioner Cummings, Commissioner Duffy, Commissioner Loftus, Commissioner Skidmore (joined the meeting at 11:10 AM), Interim County Administrator Sandrock, Assistant County Attorney Rooney, and Deputy Clerk Carleton. The following members were absent: None

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

CHANGES TO THE AGENDA:

Addition #1: Requested by: Building & Growth Management Department - A-8 - Approve Staff's recommendation to support replacing the North Spreader Canal Barrier and deny the proposed NEB projects.

Change #1: Requested by: Administration - A-2 - Public Hearing, 2:00 PM, or soon thereafter, consider the future of the Charlotte County Medical District, to include consideration of taking the following actions: a) Approve a resolution of the Board of County Commissioners of Charlotte County, Florida, designating the area currently known as the Charlotte County Medical District as a Community Redevelopment Area; finding that said redevelopment area constitutes a "blighted area" as provided for in section 163.340, Florida Statutes; and finding a need for and establishing a Community Redevelopment Agency; providing for certain other matters in connection therewith; and providing an effective date; and b) Approve an ordinance of the Board of County Commissioners of Charlotte County, Florida, relating to the Charlotte County Medical District Community Redevelopment Area; appointing the Board of County Commissioners of Charlotte County as the Charlotte County Medical District Community Redevelopment Agency Board of Commissioners ("Charlotte County Medical District Community Redevelopment Agency") pursuant to Sections 163.356 and 163.357, Florida Statutes; providing for certain other matters in connection therewith; and providing an effective date.

Mr. Sandrock announced that **Commissioner Skidmore** would be late to the meeting.

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

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

Kelly Shoemaker announced that on Tuesday, October 19th, Charlotte County will be hosting the Clean Energy Road Show due to the efforts of Jason Stoltzfus and suggested the Land Use Meeting be rescheduled to another date. The Commissioners thanked staff and all those responsible for their efforts.

A. PLANNING AND ZONING PUBLIC HEARING

(1) **RECOMMENDED ACTION:** Staff requests a public workshop on the 2010 Evaluation and Appraisal Report (EAR) to introduce the EAR document and discuss the process. **BUDGETED ACTION:** None

Matt Trepal presented a workshop on the 2010 Evaluation and Appraisal Report (EAR) and outlined the EAR Contents, the EAR and Smart Charlotte 2050, Major Issues in the EAR, Major Issues Addressed in Smart Charlotte 2050, Major Issues Identified During Preparation of the EAR, and Next Steps.

(2) **RECOMMENDED ACTION:** Consider the future of the Charlotte County Medical District, to include consideration of taking the following actions: a) Approve a resolution of the Board of County Commissioners of Charlotte County, Florida, designating the area currently known as the Charlotte County Medical District as a Community Redevelopment Area; finding that said redevelopment area constitutes a "blighted area" as provided for in section 163.340, Florida Statutes; and finding a need for and establishing a Community Redevelopment Agency; providing for certain other matters in connection therewith; and providing an effective date; and b) Approve an ordinance of the Board of County Commissioners of Charlotte County, Florida, relating to the Charlotte County Medical District Community Redevelopment Area; appointing the Board of County Commissioners of Charlotte County as the Charlotte County Medical District Community Redevelopment Agency Board of Commissioners ("Charlotte County Medical District Community Redevelopment Agency") pursuant to sections 163.356 and 163.357, Florida Statutes; providing for certain other matters in connection therewith; and providing an effective date. **BUDGETED ACTION:** None

Commissioner Duffy requested to have the Public Hearing portion of Agenda Item A-2. **BOARD CONSENSUS.**

Gary Willecke spoke in support of Agenda Item A-2.

(3) **RECOMMENDED ACTION (Quasi-Judicial):** Approve a resolution authorizing a Development Order (DO) for Harborview Development of Regional Impact containing 3,859 residential dwelling units, 50,000 square feet of office, 655,000 square feet of commercial, a 260 wet and 192 dry boat slip marina, and 350 hotel rooms. The subject site contains 653± acres. Applicants are Peace River Associates, LLC et al; Commission District I. **BUDGETED ACTION:** None.

(Chairman Starr announced it was a Quasi-Judicial Hearing and polled the Board for ex parte disclosures. Commissioner Loftus advised he had two communications. Chairman Starr advised he had several communications that had been recorded. Commissioner Duffy advised she had several communications. Commissioner Cummings advised he had ex parte communications and that he had already filed them with the Clerk. Deputy Clerk Carleton administered the oath to prospective witnesses.)

Jie Shao presented Petition DO-10-02-01 per packet material and recommended approval.

Geri Waksler spoke on behalf of the applicant and requested approval.

Tammy Liday with Earthbalance discussed existing conditions on the site, previous surveys conducted and results, preservation areas, and commented on discussions had with various federal and state agencies.

Ms. Liday and Ms. Waksler fielded inquiries by **Commissioner Duffy** regarding disturbed mangroves and wetlands, impacts by residents, and preservation of salt marshes.

Melissa Green with Burkett Environmental Services discussed water quality, storm water management, and species protection as it relates to the proposed marina.

Geri Waksler provided additional detail on behalf of the applicant.

(Deputy Clerk Carleton administered the oath to Clarke Keller.) Clarke Keller spoke in opposition and expressed concerns regarding salt marshes, manatees, and water pollution issues.

Matthew Alaimo submitted pictures to the Board, expressed concerns regarding canal issues, and spoke in opposition.

Margie Blackwell expressed concerns regarding the marina, the dredging of the saltwater marsh, the drainage canal, the amount of boat traffic, other environmental issues, consistency of the Comprehensive Plan, and inquired about verification with the Comprehensive Plan.

Jie Shao responded to Ms. Blackwell's inquiry regarding verification of the Comprehensive Plan.

Michael Haymans expressed concerns regarding inconsistencies with the marina portion of the Comprehensive Plan.

(Deputy Clerk Carleton administered the oath to Mr. Pilikian.)
Park Pilikian expressed concern with boating and marina issues and spoke in support.

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

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

Geri Waksler addressed concerns made by the public, stated they had met with federal agencies repeatedly regarding the marina, and requested approval of the Development Order.

Ms. Shao and Ms. Waksler fielded Board inquiries regarding Level I versus Level II Wetlands, the DeSoto Canal, the dredging of the salt marsh, water quality issues, the question of a green marina, and Manchester Lock Basin.

Commissioner Cummings commented on the complexity of the project, the packet summary, current conditions, the purpose, expressed concerns regarding changing commercial space to residential, changes in the Future Land Use and Zoning map, inconsistencies with the Comprehensive Plan and State Law, modification of the overall development concept to include a public marina, and spoke in opposition to approving the changes.

COMMISSIONER CUMMINGS MOVED TO DENY RESOLUTION 2010-083. THE MOTION DID NOT RECEIVE A SECOND AND WAS LOST.

COMMISSIONER LOFTUS MOVED TO APPROVE RESOLUTION 2010-083, SECONDED BY COMMISSIONER DUFFY.

Commissioner Duffy commented on concerns presented and addressed, trusted it would be a clean marina, and agreed with staff's recommendations for approval and that the project is consistent with the 2050 Comprehensive Plan. **Commissioner Loftus** commented on the dredging process. **Chairman Starr** mentioned property being taken over by Brazilian Pepper, commented on the opportunity to correct issues, the need to create jobs and industry, expressed concerns regarding endangered species, and spoke in support of the changes.

MOTION CARRIED 3:1. COMMISSIONER CUMMINGS OPPOSING; COMMISSIONER SKIDMORE ABSENT.

RECESS: 10:50 AM to 11:00 AM

(4) **RECOMMENDED ACTION:** Approve transmittal of Petition #PA-10-02-10-LS to the Department of Community Affairs (DCA) for an Objections, Recommendations, and Comments (ORC) Report; amending the Charlotte County 1997-2010 Future Land Use Map (FLUM) from Agriculture to Rural Community Mixed Use and the Charlotte County 2030 FLUM from Agriculture (AG) to Rural Community Mixed Use (RCMU), for property located north of Bermont Road (C.R. 74), south of Washington Loop Road, east of Duncan Road (U.S. 17) and west of S.R. 31, in the East County area, containing 740± acres; Applicant: Bermont Road Partnership; Commission District I. **BUDGETED ACTION:** None

Geri Waksler stated that the item is on the Agenda due to a Motion to Reconsider requested by **Commissioner Skidmore**, who was not present, and requested that the item be continued to the 2:00 Agenda or to the October Land Use Agenda.

COMMISSIONER LOFTUS MOVED TO CONTINUE AGENDA ITEM A-4 TO 2:00 PM, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

(5) **RECOMMENDED ACTION (Quasi-Judicial):** Approve an ordinance adopting Petition #PA-10-06-17, amending the Charlotte County Comprehensive Plan from Coastal Residential (CHCR) to Neighborhood Business/Residential (CHNBR) with an annotation to the County's Future Land Use Map stating base density of these properties remains at 3.5 units per acre. The subject property is located north of Seneca Avenue, south of Gulfcoast Avenue, east of Jackson Street and west of Oakley Street, in the Charlotte Harbor area; containing 4.86± acres; Applicant:

Charlotte County Board of County Commissioners; Commission District I & V. BUDGETED ACTION: None

Chairman Starr announced that Agenda Items A-5 and A-7 will be done together.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-055, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

(7) RECOMMENDED ACTION (Quasi-Judicial): Approve an ordinance adopting Petition #Z-10-06-18, amending the Charlotte County Zoning Atlas from Coastal Residential 3.5 (CR-3.5) to Neighborhood Business/Residential (NBR). The subject property is located north of Seneca Avenue, south of Gulfcoast Avenue, east of Jackson Street and west of Oakley Street, in the Charlotte Harbor area; containing 4.86± acres; Applicant: Charlotte County Board of County Commissioners; Commission District I & V. BUDGETED ACTION: None

(Chairman Starr advised that it is a Quasi-Judicial hearing and polled the Board for ex parte disclosures. Commissioner Cummings advised he had one communication that he had filed with the Clerk. Deputy Clerk Carleton administered the oath to prospective witnesses.)

Roxanne Reed presented Petitions #PA-10-06-17 and #Z-10-06-18 per packet material and recommended approval.

Grace Amodeo spoke on behalf of Charlotte Harbor CRA in support of Agenda Items A-5 and A-7.

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

MOTION CARRIED 4:0.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2010-056, SECONDED BY COMMISSIONER DUFFY.

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

(6) RECOMMENDED ACTION: At the request of the applicant, this unified application PA-10-06-19 & Z-10-06-20 has been continued to the October 19 BCC Land Use Hearing. BUDGETED ACTION: None

COMMISSIONER CUMMINGS MOVED TO CONTINUE PETITION PA-10-06-19 AND PETITION Z-10-06-20 TO THE OCTOBER 19 BCC LAND USE HEARING, SECONDED BY COMMISSIONER LOFTUS.

MOTION CARRIED 4:0. (COMMISSIONER SKIDMORE ABSENT)

(8) **RECOMMENDED ACTION:** Approve Staff's recommendation to support replacing the North Spreader Canal Barrier and deny the proposed NEB projects.

Jeff Ruggieri gave a PowerPoint presentation on the North Spreader Waterway.

(Commissioner Skidmore joined the meeting at 11:10 A.M.)

Mr. Ruggieri fielded inquiries by **Commissioner Duffy** in regard to NSEMA (North Spreader Ecosystem Management Agreement), the cause of the blowout, and safety precautions.

Mr. Ruggieri gave staff's perspective on the science behind the item, expressed concern with implementation, and requested approval to replace the barrier with the recommendations included in the Staff Report.

Phil Buchanan of Pine Island, Kathy Malone of Matlacha, RaeAnn Wessel on behalf of Captiva/Sanibel Working Group, and Richard Lauber spoke in support.

Rick Williams of Cape Coral, and Peter Brandt, Cape Coral City Councilman, spoke in opposition.

Oliver Clarke of Cape Coral Public Works gave handouts to the Board, commented on scientific factors, and addressed points mentioned in preceding public comments.

Megan Mills of Department of Environmental Protection (DEP) gave handouts to the Board and spoke in opposition.

Walter Doll of Matlacha submitted handouts to the Board and spoke in support.

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

MOTION CARRIED 5:0.

Commissioner Loftus expressed concern in regard to the degradation of the sea grass, the implementation of Net Ecosystem Benefit (NEB) projects, and the time needed, spoke in support of protecting Matlacha Aquatic Preserve, of replacement of the barrier, and mentioned attending the Lee County discussion the previous week.

COMMISSIONER LOFTUS MOVED TO PUT THE BARRIER BACK IN PLACE, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 5:0.

B. CITIZEN INPUT - ANY SUBJECT

Park Pilikian expressed concern in regard to accuracy and storage of meeting minutes and public records; requested to speak to a Commissioner.

RECESS: 12:20 PM to 2:00 PM

PUBLIC HEARING - 2:00 PM

(2) **RECOMMENDED ACTION:** Consider the future of the Charlotte County Medical District, to include consideration of taking the following actions: a) Approve a resolution of the Board of County Commissioners of Charlotte County, Florida, designating the area currently known as the Charlotte County Medical District as a Community Redevelopment Area; finding that said redevelopment area constitutes a "blighted area" as provided for in section 163.340, Florida Statutes; and finding a need for and establishing a Community Redevelopment Agency; providing for certain other matters in connection therewith; and providing an effective date; and b) Approve an ordinance of the Board of County Commissioners of Charlotte County, Florida, relating to the Charlotte County Medical District Community Redevelopment Area; appointing the Board of County Commissioners of Charlotte County as the Charlotte County Medical District Community Redevelopment Agency Board of Commissioners ("Charlotte County Medical District Community Redevelopment Agency") pursuant to sections 163.356 and 163.357, Florida Statutes; providing for certain other matters in connection therewith; and providing an effective date. **BUDGETED ACTION:** None

Jim Fendrick gave a PowerPoint presentation on the Findings of Necessities Report and outlined the Community Development Area (CRA) Assessment and Conditions.

Commissioner Skidmore inquired about the percentage of rentals versus homeownership. Mr. Fendrick responded in detail.

Mr. Fendrick continued by outlining Substantial Deterioration.

Commissioner Duffy praised staff's efforts, spoke in favor of the redevelopment of the District, mentioned Team Punta Gorda, and commented on declining property values.

Tom Rice of Fawcett Memorial Hospital spoke in support of the CRA, read a letter on behalf of Joseph T. Clancy, and submitted it to the Board.

Sharon Kozenko, Pat Garriton, Tess Canja on behalf of AARP Chapter 80, Susan Swanson, Julie Mathis on behalf of the Chamber of Commerce, Jim Hagarman, Nancy Prafke on behalf of Team Punta Gorda, Geri Waksler, Todd Rebol, and Gary Bayne spoke in support of the CRA.

Robert Goon gave suggestions and ideas to the Board for the CRA.

Lucy Leavitt expressed concerns about her neighborhood in the CRA area.

An unidentified citizen spoke in regard to the high percentage of rental properties.

Joe Tiseo expressed concerns with funding and spoke in opposition.

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

MOTION CARRIED 5:0.

Commissioner Skidmore addressed the concerns of Mr. Tiseo, commented on the aspects of the creation of a CRA, and spoke in favor of a 501C3. Mr. Fendrick gave an explanation of Tax Increment Financing (TIF) and fielded inquiries from **Commissioner Skidmore** regarding CRA advisory committees and funding opportunities. **Commissioner Skidmore** requested support from the public.

Commissioner Loftus commented on his involvement with the Charlotte Harbor CRA, the history of the Punta Gorda CRA, gave a brief history on the funding of the Charlotte Harbor CRA, explained the development of criteria, commented on the

importance of funding, and on the degradation of the Medical District.

COMMISSIONER DUFFY MOVED TO APPROVE RESOLUTION 2010-082, SECONDED BY COMMISSIONER LOFTUS.

Commissioner Duffy thanked the Chief Executive Officers (CEO) from the two hospitals for their support and inquired about the use of a HUD grant for the Medical District. Mr. Sandrock responded in detail.

Commissioner Duffy addressed the concerns of Mr. Tiseo related to the Finding of Necessities Report, spoke in support of the creation of a 501C3, and commented on the positive aspects of the proposed district.

Chairman Starr commented on the other CRA's in the area, the pros and cons related to the creation of a CRA, the funding and costs involved, addressed the concerns mentioned by citizens, and spoke in support of the CRA.

Commissioner Cummings commented on Murdock Village, revenue possibilities, and Tax Increment Financing (TIF).

MOTION CARRIED 5:0.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2010-054, SECONDED BY COMMISSIONER SKIDMORE.

MOTION CARRIED 5:0.

Mr. Fendrick fielded inquiries from **Commissioner Loftus** related to developing a plan for TIF funding and a 501C3.

Commissioner Cummings expressed concerns regarding using scarce Ad Valorem dollars.

(4) **RECOMMENDED ACTION:** Approve transmittal of Petition #PA-10-02-10-LS to the Department of Community Affairs (DCA) for an Objections, Recommendations, and Comments (ORC) Report; amending the Charlotte County 1997-2010 Future Land Use Map (FLUM) from Agriculture to Rural Community Mixed Use and the Charlotte County 2030 FLUM from Agriculture (AG) to Rural Community Mixed Use (RCMU), for property located north of Bermont Road (C.R. 74), south of Washington Loop Road, east of Duncan Road (U.S. 17) and west of S.R. 31, in the East County area, containing

740± acres; Applicant: Bermont Road Partnership; Commission District I. BUDGETED ACTION: None

Jie Shao presented Petition #PA-10-02-10-LS per packet material and recommended approval.

Geri Waksler spoke on behalf of the applicant and requested approval.

Rick Fried spoke in opposition to the Petition.

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

MOTION CARRIED 5:0.

COMMISSIONER SKIDMORE MOVED TO APPROVE AGENDA ITEM A-4, SECONDED BY COMMISSIONER LOFTUS

Commissioner Cummings spoke in opposition and gave the reasons why.

MOTION CARRIED 3:2. CHAIRMAN STARR, COMMISSIONER CUMMINGS OPPOSING.

B. CITIZEN INPUT - ANY SUBJECT - NONE

AA. County Administrator: NONE

BB. County Attorney:

Attorney Rooney pointed out all that was done today was to create the CRA, to appoint the Board as the Agency, that Growth Management would be working with the public to come forward with a plan, and submit a TIF proposal if one is proposed.

CC. Commissioner Comments:

Commissioner Skidmore commented on the closing of the Englewood Health Department and Clinic last Thursday, stated that a physician had been found, and that the operations of the Health Department would be in full service; expressed appreciation for the Energy Road Show that is coming to Port Charlotte, and praised Jason Stoltzfus and the staff responsible for their efforts.

Commissioner Loftus thanked Mr. Stoltzfus, staff, and the Commissioners for their efforts to bring the Road Show to Port Charlotte.

Commissioner Cummings suggested that the Board put an item on the September 28th Agenda to consider an employment contract with Ray Sandrock to appoint him Charlotte County Administrator.

COMMISSIONER CUMMINGS MOVED TO PUT AN ITEM ON THE SEPTEMBER 28TH AGENDA TO CONSIDER AN EMPLOYMENT CONTRACT WITH RAY SANDROCK TO APPOINT HIM CHARLOTTE COUNTY ADMINISTRATOR, SECONDED BY COMMISSIONER LOFTUS.

Chairman Starr agreed with the motion but had reservations because of the fact that two new commissioners would be seated in the near future and should have input.

Mr. Sandrock commented on leadership needing to step up and the importance of sending a message to citizens and employees that the County is stabilizing.

Commissioner Skidmore commented on Mr. Sandrock making the Charlotte County Utilities appointment, other decisions he has made, and praised his efforts. **Commissioner Loftus** praised Mr. Sandrock for his leadership qualities.

Commissioner Duffy praised Mr. Sandrock's work, accomplishments, commented on the impressions of the business community, and spoke in support of putting the item on the next Agenda.

Attorney Knowlton advised the Board there needs to be four (4) affirmative votes to appoint the County Administrator and gave the Board the choice to do the appointment now or to wait and have the discussion on the next agenda.

COMMISSIONER CUMMINGS WITHDREW HIS MOTION.

COMMISSIONER LOFTUS MOVED TO ADD THE APPOINTMENT OF RAY SANDROCK AS COUNTY ADMINISTRATOR TO THE SEPTEMBER 21ST AGENDA, SECONDED BY COMMISSIONER CUMMINGS.

MOTION CARRIED 4:1. CHAIRMAN STARR OPPOSING.

COMMISSIONER LOFTUS MOVED TO APPOINT MR. SANDROCK AS COUNTY ADMINISTRATOR, SECONDED BY COMMISSIONER SKIDMORE.

MOTION CARRIED 4:1. CHAIRMAN STARR OPPOSING.

Commissioner Cummings commented on money spent on the phosphate issue, an upcoming environmental impact study by the Army Corps of Engineers, advised of an upcoming workshop in Lakeland for the study, and encouraged having staff participate in the process.

Mr. Ruggieri pointed out there was previous Board direction for staff not to pursue any kind of effort toward the phosphate litigation. **Commissioner Loftus** expressed concern with who should participate in the workshop. Board discussion ensued.

Commissioner Skidmore proposed putting the phosphate issue on the next agenda. **Commissioner Cummings** advised that a decision needed to be reached by October 6 and 7. **BOARD CONSENSUS TO PUT THE PHOSPHATE ISSUE ON THE NEXT AGENDA.**

Chairman Starr commented on the feral cat program, proposed having the County sign a contract with a local veterinarian to trap, spay, neuter, and release feral cats for as much or less money than is being paid to the Animal Welfare League, and mentioned problems at Fisherman's Village. **Commissioner Loftus** said he needed more information before making a decision. **Commissioner Skidmore** suggested talking with the Administrator and Animal Control before entering into a contract. **Chairman Starr** stated he would provide information to **Commissioner Skidmore** and bring the issue up at the next meeting.

ADJOURNED: 4:05 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
sfc**