

MAY 10, 2011

The Board of County Commissioners, Manatee County, Florida, met in REGULAR SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, at 9:02 a.m.

Present were Commissioners:

Carol Whitmore, Chairman
John R. Chappie, First Vice-Chairman
Lawrence E. Bustle, Jr., Second Vice-Chairman
Michael Gallen, Third Vice-Chairman
Robin DiSabatino
Donna Hayes (entered during meeting)
Joe McClash

Also present were:

Dan Schlandt, Deputy County Administrator
Tedd Williams, Jr., County Attorney
Susan G. Romine, Board Records Director,
representing R. B. Shore, Clerk of Circuit Court

Invocation by Rev. Christopher Schmidt, Parrish United Methodist Church.

All witnesses and staff giving testimony were duly sworn.

AGENDA

Agenda of May 10, 2011, and agenda update memorandum.

[BC20110510DOC001](#)

PROCLAMATIONS

Motion was made by Mr. McClash, seconded by Mr. Bustle, and carried 6 to 0, to adopt:

1. A Proclamation designating May 7-15, 2011, as Tourism Week accepted by **Elliot Falcione**, Convention and Visitors Bureau (CVB) Director and members of the CVB. [BC20110510DOC002](#)
2. A Proclamation designating May 8-14, 2011, as Salvation Army Week accepted by **Major Bob Parker**. [BC20110510DOC003](#)
3. A Proclamation designating May 15-21, 2011, as Law Enforcement Week. [BC20110510DOC004](#)
4. A Proclamation designating May 15-21, 2011, as Emergency Medical Services Week accepted by EMS Chief **Ronald Koper**. [BC20110510DOC005](#)
5. A Proclamation designating May 15-21, 2011, as National Public Works Week accepted by **Dan Gray**, Utilities Director, and **Ron Schulhofer**, Public Works Director. [BC20110510DOC006](#)
6. A Proclamation designating May 2011 as Teen Pregnancy Prevention and Sexual Health Awareness Month accepted by **Mary Ann Legler**, Healthy Teens Coalition of Manatee County. [BC20110510DOC007](#)
7. A Proclamation designating May 2011 as Drug Court Month accepted by **Chief Judge Lee Haworth** and Program Director **Alfred James**. [BC20110510DOC008](#)
8. A Proclamation designating May 2011 as DUI Court Month accepted by **Judge Haworth** and Program Manager **Erica Randall**. [BC20110510DOC009](#)

EMPLOYEE OF THE MONTH AND HEROISM AWARD

Employee of the Month Award for May 2011 and Heroism Award was presented to **Randy West**, Natural Resources Department, by Charlie Hunsicker, Natural Resources Director and Marcus Campion, Natural Resources Department. [BC20110510DOC010](#)

PALMETTO HIGH SCHOOL ROWING CREW

David Gustafson, Building and Development Services Department, presented the Palmetto High School Rowing Crew. Members of the Crew thanked the Board for the facility at Fort Hamer Park

and presented each Commissioner with a T-shirt.

Trish Jackson, Crew Coach, expressed gratitude for the opportunity to allow Palmetto High School to use the facility. The boys team finished second at the Florida Scholastic Rowing Association's West District Championship in April. Both the girls and boys varsity teams placed fourth in the eight-plus heat one at the Florida Scholastic Rowing Association Regatta at Nathan Benderson Park in Sarasota.

Kenny Ansbro, Palmetto High School Athletic Director, presented a plaque of appreciation to the County Commission.

Denise Greer, parent, and **Rev. Christopher Schmidt**, Parrish United Methodist Church, expressed appreciation to the Board for the facility and to the coaches (who are not paid).

Paul Blacketter, Benderson Development, stated the 2011 Regatta Season ended, and thousands of people visited both counties, which had a positive impact on the economy. For the 2012 season, the Fort Hamer site will host the State Championship and Regional's. They are working on bids for the NCAA National Championships for the year 2014 and the World Rowing Championships for year 2017. A recent impact study was sent to Tallahassee, and the results show that this facility can bring in over \$150 million annually to the County.

Discussion: Legislature put \$5 million in the budget for Phase 3, and hopefully Governor Scott will sign it; Port Manatee will benefit in the year 2017; universities bestowed gifts to the facility after using it; a team fundraiser will be held on May 14, 2011; etc. [BC20110510DOC011](#)

CONVENTION AND VISITORS BUREAU

Volunteer Recognition

Long-time Tourist Information Center Volunteers, **Dean Porter** (26 years), and **Jack Parker** (13 years) were recognized for their years of service. [BC20110510DOC012](#)

Destination Marketing Association Program Accreditation

Jack Wert, Collier County Convention and Visitors Bureau Director, made a presentation for the Bradenton Area Convention and Visitors Bureau accreditation credential.

Mr. Falcione noted the accreditation will give the Bureau the opportunity to form new partnerships. [BC20110510DOC013](#)

ROBINSON PRESERVE FIT2RUN – TWILIGHT 5K RUN

Doug Schiller, Bradenton Runners Club, displayed a photograph of the start of the race and presented checks (\$4,761.45 each) for Robinson Preserve and the Palma Sola Botanical Park.

Laura Pope, Palma Sola Botanical Park, reported the event brought attention to the Park.

Melissa Nell, Natural Resources Department, expressed appreciation to the Botanical Park.

William Robinson, Sr., and **Parks Robinson** thanked everyone involved with the event.

Motion was made by Mr. Chappie, seconded by Mrs. Hayes, and carried 7 to 0, for:

1. Acceptance of the donation of \$4,761.45 to be used by the Natural Resources Department at Robinson Preserve; and,
2. Budget Amendment

Natural Resources **B-11-053**

[BC20110510DOC014](#)

Recess/Reconvene. All members present.

TEFRA PUBLIC HEARINGS

MANATEE COUNTY PORT AUTHORITY

Public hearing (Notices published) was held to consider, on behalf of the Manatee County Port Authority, in connection with the plan of finance for the issuance by the Manatee County Port Authority of not exceeding \$3,000,000 in aggregate principal amount of revenue notes outstanding at any one time, issued under a line of credit for the purpose of financing a portion of a dredging project related to Berth 12.

Motion was made by Mrs. Hayes, seconded by Mr. Bustle, and carried 7 to 0, to ADOPT Resolution:

R-11-115 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, APPROVING A PLAN OF FINANCE FOR THE ISSUANCE OF NOT EXCEEDING \$3,000,000 MANATEE COUNTY PORT AUTHORITY REVENUE NOTES ("THE NOTES") OUTSTANDING AT ONE TIME, WITHIN THE MEANING OF SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; TO BE ISSUED TO PAY A PORTION OF THE AUTHORITY'S DREDGING PROJECT RELATING TO BERTH 12 AND PROVIDING AN EFFECTIVE DATE FOR THIS RESOLUTION. [BC20110510DOC015](#)

CITY OF BRADENTON

Public hearing (Notices published) was held to consider a plan of financing involving the issuance by the City of Bradenton, Florida (the City) of not to exceed \$4,000,000 principal amount of and industrial development revenue bond of the City, the proceeds of which will be loaned by the City to the Manatee County Family Young Men's Christian Association, Inc., a Florida non-profit corporation (as outlined on the Proof of Publication).

William Clague, Deputy County Attorney, reported this is an Industrial Development Bond for the City of Bradenton, which is being issued to refinance an existing bond issue and finance new projects. The Projects shall consist of the following: **(1) Refunded Projects** - The acquisition, construction, equipping and renovation of a 27,000-square-foot single-story social service center facility located at 5100 Lakewood Ranch Boulevard, Bradenton, Florida; **(2) City Projects** - The acquisition, construction, equipping and renovation of a 27,000-square-foot single-story social service center facility located at 907 63rd Avenue East, Bradenton, Florida; **(3) County Projects:** (i) The construction and equipping of a 28,000-square-foot expansion (in two phases) and renovation of a social service center facility located at 5100 Lakewood Ranch Boulevard, Bradenton, Florida, including expanded space for youth, teen and wellness programs, a new gymnasium and an outdoor swimming pool expansion, and (ii) the acquisition, construction and equipping of and renovation to a 19,000-square-foot single-story social service center facility located at the southeast corner of the intersection of 10th Avenue West and 10th Street West, Palmetto, Florida.

Motion was made by Mrs. Hayes, seconded by Mrs. DiSabatino, and carried 7 to 0, to adopt Resolution

R-11-099 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, APPROVING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE CITY OF BRADENTON, FLORIDA, OF ITS INDUSTRIAL DEVELOPMENT REVENUE AND REFUNDING BOND (MANATEE COUNTY FAMILY YMCA PROJECTS), SERIES 2011 IN THE PRINCIPAL AMOUNT NOT EXCEEDING \$4,000,000 FOR THE BENEFIT OF MANATEE COUNTY FAMILY YOUNG MEN'S CHRISTIAN ASSOCIATION, INC., TO FINANCE AND REFINANCE THE COSTS OF CERTAIN SOCIAL SERVICE CENTER FACILITIES IN THE CITY OF BRADENTON, FLORIDA, AND IN MANATEE COUNTY, FLORIDA, OUTSIDE OF THE CITY OF BRADENTON, WHICH FACILITIES WILL BE OPERATED BY MANATEE COUNTY FAMILY YOUNG MEN'S CHRISTIAN ASSOCIATION, INC.; PROVIDING OTHER DETAILS AND AN EFFECTIVE DATE. [BC20110510DOC016](#)

(Note: The public hearing was reopened later in the meeting for a revised Resolution)

CONSENT AGENDA

Motion was made by Mr. McClash and seconded by Mrs. DiSabatino, to approve the Consent Agenda incorporating the language as stated in the recommended motions in the agenda memoranda (as may have been amended in the supplemental agenda), with deletion of:

- (1) **Neal Preserve Cooperative Funding Extension** (deferred to 5/24/11); [BC20110510DOC017](#)
- (2) **Conveyance of Community Park from Mosaic** (deferred to 5/24/11); [BC20110510DOC018](#)
- (3) **Environmental Study – Bridge Design Over Manatee River** (separate action); and
- (4) **WCIND Countywide Navigation Projects** (separate action).

Environmental Study – Bridge Design Over Manatee River

Ken Bumgarner, Waterlefe Community Development District (CDD), expressed concern that the contractor did not include funds for the environmental study, especially since the Board is considering spending \$250,000 for the Rye Road corridor. The Waterlefe CDD has not, and will not, object to the building of the bridge, but is willing to work with the County to mitigate the problems that would be caused by locating the bridge at one of entrances to Waterlefe.

(Depart Mr. Chappie and Mr. McClash)

[BC20110510DOC019](#)

The motion approving the Consent Agenda carried 5 to 0. Items APPROVED:

CLERK'S CONSENT CALENDAR

[BC20110510DOC020](#)

BONDS**Accept:**

Sheriff's Public Employees and Deputy Sheriff's Blanket Bonds (20 additions, 11 deletions). [BC20110510DOC021](#)

Country Meadows, Phase II

Release Agreement Guaranteeing Completion of Required Sidewalks and Bikeways and Performance Bond (Surety Bond 533012S and associated rider[s]), \$290,983.

Lakewood Ranch Business Park, Phase I

[BC20110510DOC022](#)

Release Agreement Warranting Required Improvements – Final Lift of Asphalt and Defect Security (Surety Bond 5030258 and associated rider[s]), \$3,210.09.

Release Agreement for Final Wearing Course of Asphalt on Roadways. [BC20110510DOC023](#)

Lakewood Ranch Business Park, Phase II

Release Agreement Warranting Required Improvements – Infrastructure Improvements and Defect Security (Surety Bond 5030259 and associated rider[s]), \$67,093.35.

[BC20110510DOC024](#)

Lakewood Ranch Boulevard Widening – Professional Parkway East to Mallard Lane

Release Agreement Warranting Required Improvements and Defect Security (Surety Bond 5032386 and associated rider[s]), \$49,582.16.

[BC20110510DOC025](#)

Lakewood Ranch Boulevard Widening – S.R. 70 and Lakewood Ranch Boulevard Intersection South of Palmbrush Trail to North of Center Ice Parkway

Release Agreement Warranting Required Improvements and Defect Security (Surety Bond 5032271 and associated rider[s]), \$320,277.50.

[BC20110510DOC026](#)

Twin Rivers, Phase II

Accept Branch Banking and Trust Company (BB&T) Amendment Five to Letter of Credit 9660080071/00009 (fka 9660080071/00005), **extending** the expiration date to March 20, 2012, \$44,599.

Note: Correct Scrivener's Error from the April 7, 2011, Clerk's Consent.

Twin Rivers, Phase III

[BC20110510DOC027](#)

Accept BB&T Amendment Three to Letter of Credit 9660829064-00015 (fka 9660829064-00018), **extending** the expiration date to April 30, 2012, \$52,530.

Note: Correct Scrivener's Error from the April 7, 2011, Clerk's Consent Calendar.

Woods of Moccasin Wallow, Phase I

[BC20110510DOC028](#)

1. **Release Agreement** Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements – Neighborhood Meeting

- Room and Performance Bond (Letter of Credit 68018772 and associated amendment[s]), \$291,294.30.
- 2. **Release** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements – Multi-Purpose Court and Performance Bond (Letter of Credit 68018770 and associated amendment[s]), \$60,261.59.
- 3. **Release** Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements – Playground and Performance Bond (Letter of Credit 68018771 and associated amendment[s]), \$105,443.70. [BC20110510DOC029](#)

REFUNDS

SMR Communities Joint Venture – Impact Fee \$67,411.00

WARRANT LIST

May 5, 2011 through May 9, 2011 [BC20110510DOC030](#)
[BC20110510DOC031](#)

MINUTES

April 7, 2011 [BC20110510DOC032](#)

ACCEPT

Tara Community Development District 1 – Proposed Budget for FY 2011-12.

Administrative Contract Adjustments (Pursuant to Resolution R-07-189): [BC20110510DOC033](#)

Southwest Water Reclamation Facility – Adjustment 1 (final) to Contract with RTD Construction, Inc.; decrease of \$196,654.71, adjusted total \$2,527,975.29.

Contract Documents (Pursuant to Manatee County Code, Chapter 2-26): [BC20110510DOC034](#)

Pic Town Waterline Replacement Project – Phase II – Change Order 2 to Contract with Andrew Sitework LLC; decrease of \$78,120, adjusted total \$621,512.93; and an additional two calendar days for a revised completion date of February 15, 2011. [BC20110510DOC035](#)

COUNTY ADMINISTRATOR

FINAL PLAT - CENTRAL PARK, SUBPHASE B-2b

- 1. Final Plat;
- 2. Lot Drainage and Grading Plans;
- 3. Mortgagee Joinder In and Ratification of Subdivision Plat and all Dedications and Reservations Thereon from FC LLC;
- 4. Agreement Guaranteeing Completion of Required Improvements and Temporary Construction Easement for Private Improvements with Central Park Lifestyles LLC – Final Lift of Asphalt; and Performance Bond (Surety Bond 5037034) from Bond Safeguard Insurance Company, \$61,649.75;
- 5. Agreement for Final Wearing Course of Asphalt on Roadways with Central Park Lifestyles LLC; and
- 6. Supplemental Amendment to Declaration of Covenants, Conditions, and Restrictions for Central Park to add Subphase B-2b. [BC20110510DOC0036](#)

BUDGET AMENDMENT

Various Departments B-11-051

Supporting Description and Detail Attached. [BC20110510DOC037](#)

COURTHOUSE CHILLER PIPING

Authorization for the County Administrator or his designee to execute Change Order 4 to Contract with B & I Contractors, Inc.; increase of \$158,535, adjusted total \$1,294,048; and an additional 60 calendar days for a revised completion date of June 16, 2011.

IMPACT FEE CREDITS

- 1. Execution of Credit Authorization CA-10-06(T) and Final Authorization of Transportation Credit for Tom Cavanaugh for dedication of right-of-way on Lakewood Ranch Boulevard for **Lost Creek Resort Apartments**, \$76,727. [BC20110510DOC038](#)
[BC20110510DOC039](#)
- 2. Execution of Credit Authorization CA-10-01(T) for Wal-Mart Stores East, Inc., for improvements at **University Parkway and Tuttle Avenue**. [BC20110510DOC040](#)

LAND ACQUISITION AND RELOCATION SERVICES AND PROFESSIONAL SERVICES FOR TRANSPORTATION PLANNING AND PROJECT REVIEW

Authorization for the County Administrator or his designee to execute Addendum 2 to Agreements (2) with Post, Buckley, Schuh & Jernigan, Inc., for a name change and assignment to Atkins North America, Inc. [BC20110510DOC041](#)

CHARLOTTE HARBOR NATIONAL ESTUARY PROGRAM

Execution of FY 2011 Funding Agreement with the Southwest Florida Regional Planning Council for the County's share of funding, \$5,000. [BC20110510DOC042](#)

9TH STREET WEST

R-11-107-V A RESOLUTION DECLARING A PUBLIC HEARING ON JUNE 7, 2011, AT 9:00 A.M., OR AS SOON THEREAFTER AS POSSIBLE, ON APPLICATION BY CAY 3411 LLC AND GAN 3411 LLC TO VACATE CERTAIN UN-IMPROVED RIGHTS-OF-WAY OF 9TH STREET WEST, BRADENTON. [BC20110510DOC043](#)

69TH STREET EAST AND ERIE ROAD INTERSECTION IMPROVEMENT PROJECT

Execution of Subordination of Utility Interests and Agreement for Reimbursement for Additional Facility Relocations with Bright House Networks LLC, for an easement located at 8605 Erie Road, Parrish (Earl and Catherine Stancil). [BC20110510DOC044](#)

LAKWOOD RANCH BOULEVARD

Acceptance of Warranty Deed and Affidavit of Ownership and Encumbrances from Lost Creek Apartments LLC. [BC20110510DOC045](#)

COMMUNITY TRANSPORTATION COORDINATION

Execution of 2011 Coordination Agreement with Quality of Life Community Services, Inc., provider with Manatee County Area Transit. [BC20110510DOC046](#)

HIGHWAY LIGHTING MAINTENANCE AND COMPENSATION

Execution of Annual "Exhibit A" to the Highway Lighting Maintenance and Compensation Agreement with the Florida Department of Transportation for FY 2011-12, \$222,287.42.

UTILITY STANDARDS

Approval of Manatee County Public Works Utility Standards (revision date 5/10/11). [BC20110510DOC047](#)

TIME PAYMENT AGREEMENTS

Execution of Releases of Time Payment Agreement Liens for satisfaction of agreements with: Ronald R. Baker (2); Heidi Hall Enneking; Richard C. and Mary Helen Kermode; Michael T. and Paula J. Maddox; Gary Robert and Deborah D. Magann; Linda C. and Leonard Schaeffer; and Floyd J. and Shigeko Sheppard. [BC20110510DOC049](#)

PERSONNEL - TEMPORARY LOAN OF STAFF

R-11-119 A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE ENTRY OF AGREEMENTS RELATED TO ASSIGNMENT OF EMPLOYEES TO ASSIST OTHER JURISDICTIONS; MAKING RELATED FINDINGS; PROVIDING FOR SEVERABILITY AND TREATMENT OF CONFLICTING RESOLUTIONS; AND PROVIDING FOR AN EFFECTIVE DATE. [BC20110510DOC050](#)

(End Consent Agenda)

CITIZENS' COMMENTS**14th Street West CRA - Car Show**

Alison Hewitt, Central Economic Development Center (CEDC), reported the Custom Car Show was a success on May 7, 2011. She announced the CEDC has received a Selby grant, which will be used to assist local businesses. [BC20110510DOC051](#)

Public Seating Program - Bus Stops

Steve Despot, Czar Management, remarked the County is losing money regarding advertising on bus benches/shelters, because the contract with Metropolitan Systems has been on a month to month basis. The bid process is not required by State law, and a committee of three members should be established to conduct the Request for Proposal (RFP) interviews.

Discussion: This issue has been on hold; is a work session needed to review RFP; had a work session on November 30, 2010, and staff outlined recommendations; staff is working on a

report, which will include timelines; may have more ideas after the RFP is reviewed; etc.

Ron Schulhofer, Public Works Director, reported the Request for Legal Services has been completed by the County Attorney's Office, and staff will hold the RFP until the work session.

(Enter Mr. Chappie)

[BC20110510DOC052](#)

Woody's River Roo Pub and Grill, Ellenton

Tom Santoro discussed the continuing outdoor noise from the River Roo and that the owners have not erected the 10-foot high sound barrier at the eastern property boundary. He requested an injunction to stop music that violates the noise ordinance as proposed for the Bearded Clam and Tiki Bar (4/26/11). Patrons are ignoring No Parking signs and blocking his driveway. He requested the area to the west of his driveway be designated a tow-away zone.

(Enter Mr. McClash during comments)

Discussion: Have Code Enforcement follow-up with Mr. Santoro; want a report regarding the appropriate land use; have the decibels been measured; the Manatee County Sheriff's Office has been on site when staff has measured noise levels; bring this back; etc.

[BC20110510DOC053](#)

Land Development Code

William Wheeler commented that the Land Development Code (LDC) should be amended to function in the appropriate manner regarding Heavy Manufacturing zoning and noise. He suggested staff seek public input for the amendment.

[BC20110510DOC054](#)

GAMBLE CREEK – APPEAL OF IMPACT FEE ADMINISTRATOR DETERMINATION

Public hearing (Notices published) was held to act upon an Appeal of Impact Fee Administrator Determination by Medallion Homes.

Sharla Fouquet, Impact Fee Coordinator, summarized the history of the Gamble Creek Estates Impact Fee Credit Authorizations CA-07-05(T) and CA-08-07(T), which were assigned to Medallion Home at Gamble Creek from Weatherstone Development. The former Impact Fee Administrator (Tom Williams) issued an Administrative Determination finding Weatherstone's right-of-way dedications were only partially creditable (\$66,496). On January 27, 2011, **S. William Moore** submitted a written notice of appeal on behalf of Medallion Home at Gamble Creek LLC, appealing the Administrative Determination. She recommended upholding the Impact Fee Administrator's Administrative Determination. Furthermore, the LDC is detailed on the requirements that applicants must meet in order to qualify for impact fee credits. Upholding this determination follows precedent established by similar cases.

Carlos Beruff, Medallion Home at Gamble Creek LLC, appellant, requested either the impact fees be credited, or the County returns the acquired right-of-way.

Mark Barnebey, who represented the original applicants of Gamble Creek Estates, displayed an aerial and zoning map to give an overview of the property. He represented Weatherstone at the hearing on August 5, 2004, and impact fees were not discussed during the hearing.

Joe Grimail, traffic engineer for the appellant, addressed the original traffic study, inbound/outbound trips and the Level of Service for Golf Course Road and Spencer Parrish Road. No improvements were warranted on Golf Course Road or Spencer Parrish Road, and a left turn lane into the main site driveway on Golf Course Road was recommended, but did not meet turn lane warrants. The Impact Fee Administrator denied right-of-way credits, because it fits the definition of a Site-Related Capital Transportation Facility. The denied credits were for nine feet along the entire Golf Course Road frontage and 17 feet along the entire frontage of Spencer Parrish Road. The Site-Related Capital Facility requirement was a 50-foot left turn lane with a 145-foot deceleration and taper on Golf Course Road. The project did not require turn lane improvements to Spencer Parrish Road. The right-of-way credit claim for 17 feet of right-of-way

for 1,550 linear feet of right-of-way was denied for Site-Related Facilities when a turn lane was not required on Spencer Parrish Road. The site is being asked to provide approximately 4,800 linear feet of right-of-way. Approximately 195 feet of right-of-way on Golf Course Road meets the definition a County Site-Related Transportation Facility, but only the section where an improvement was constructed.

S. William Moore, attorney for the appellant, explained a developer cannot be required to give up a piece of land or pay a fee, if the impact the developer has caused does not create a need. He questioned Mr. Grimail regarding the Level of Service, adopted Level of Service standards, peak trip amounts, accident trends or patterns, and safety issues concerning Golf Course Road and Spencer Parrish Road. A proposed Final Order Appeal of Decision of Impact Fee Administrator was submitted.

Mr. Grimail reported if the project is built, the Level of Service standards will not be violated. At the time the study was conducted, traffic from the eight approved surrounding developments was included with a three percent per year background. According to the County's link sheets, the Level of Service capacity for Golf Course Road is 1,040 trips, and the total traffic (includes existing, background, and the project) is at 316 trips. The Level of Service "D" capacity is 952 on Spencer Parrish Road. Including traffic and the project, the number of total trips is 27.

William Clague, Deputy County Attorney, noted this appeal is quasi-judicial and governed by LDC Section 808. The appellant bears the burden of showing there is a clear and demonstrable error in the application of the facts in the record to the standards for review of an offer of credit (Section 808.5). Additionally, the decision must be based on competent and substantial evidence, which is expert testimony in the record, not legal opinion or conjecture. Staff's basis for denying credits for the right-of-way, was that it was site-related, within the meaning of LDC Section 201. This has been the established practice in the County since impact fees were first adopted. If a reviewing court concluded that the original developer was entitled to compensation, and this developer bought that right when they acquired the subdivision, it does not mean they are entitled to impact fee credits. The issues being raised are not challenging the impact fee credit award, but the original dedication.

Ms. Fouquet and Tony Rodriguez, Building and Development Services Department, used a slide presentation to review 2030 Future Traffic Circulation Functional Classification, total dedication, and existing right-of-way of Spencer Parrish Road and Golf Course Road, LDC Section 807.1 - Improvements Eligible for Credits, definitions of Non-Site Related Capital Roads Facilities and Site-Related Capital Transportation Facilities (LDC Section 201), LDC Section 808 - Appeals (specifically Sections 801.1, 808.2, and 808.5), and options for the Board (uphold the original determination, modify the original determination, or overturn the original determination). The County receives land per Chapter 907.9.6, which reads: Except where otherwise provided by this Code, the County shall require the dedication of rights-of-way. Chapter 907.9.3 calls for a rural cross section of roadway ditch drainage not curb and gutter. The minimum right-of-way requirement is 84 feet, and staff uses this requirement with the 42-foot half-width right-of-way. Chapter 807.4 reads non site related capital road facilities that expand the capacity of the impact fee road system or what is creditable. There is no capacity expansion in the nine feet on Golf Course Road and the 17 feet on Spencer Parrish Road.

Robert Agrusa, Building and Development Services Department, used photographs to discuss roadway characteristics (travel lane and travel way, shoulder area, and swale area) on Golf Course Road and Spencer Parrish Road.

Mr. Rodriguez stated the applicant is being awarded impact fee credits for anything over the 42-foot, half-width right-of-way. Staff recommended denial of the sections of right-of-way (first nine feet of right-of-way on the north side of Golf Course Road, and the entire 17 feet of right-of-way on the southwest side of Spencer Parrish Road), because they were needed to bring

the designated roads up to the County Standard of a minimum 42-foot right-of-way, and; therefore, are Site-Related Capital Transportation Facilities.

Recess/Reconvene. All members present except Mr. McClash.

Discussion: The option for the applicant to get the right-of-way back was not mentioned; this hearing is to discuss impact fee credits only; definition of Site-Related Capital Transportation Facilities; rational nexus; impact fees credits can be used to compensate for right-of-way to add lanes; what is the legal basis for the County's procedure to obtain additional land for 42-foot half-width right-of-way; safety standards to require turn lanes for new subdivisions; ex-parte communication; the LDC does not address this situation; etc.

(Enter Mr. McClash)

Mr. Grimail answered brief questions regarding the term rational nexus and the definition of Site-Related Capital Transportation Facilities.

Mr. Beruff noted a small percentage of the 159 lots access Spencer Parrish Road from the project entranceway (see photograph). The road was built by the County in 2003 or 2004 in the 50-foot right-of-way.

Upon hearing the evidence presented during this hearing, Mr. McClash moved to uphold Tom Williams' determination based on competent and substantial evidence on the record (and authorize execution of the Final Order). The motion was seconded Mrs. DiSabatino. Following a brief discussion, the motion carried 7 to 0.

[BC20110510DOC055](#)

ENVIRONMENTAL IMPACT STUDY – BRIDGE DESIGN OVER MANATEE RIVER

Mr. Clague reiterated that the Board should avoid discussing the Environmental Impact Study (EIS) in detail. County engineers submit the draft EIS for feedback; however, the Coast Guard does not issue written directives until they issue the Notice to Adopt the EIS.

Mr. McClash reported that citizens who attended the public hearing, where the Coast Guard was in attendance, requested the additional analysis (at Rye Road vs. Fort Hamer Road).

Jay King stated the Coast Guard and the Environmental Protection Agency requested an evaluation of the Rye Road option and have concerns about the Fort Hamer location being viable for a river crossing.

Tom Davidson, Waterlefe Master Property Owners' Association, questioned if the County really wants to spend the additional funds when it is unsure if the final numbers will be realistic.

Don Forster suggested the Board contract with an independent engineering firm to determine whether the traffic studies during the original EIS hold true today (for the Fort Hamer bridge). He stated awarding the contract to URS Corporation is a conflict of interest and asked if Impact Fee District D still exists.

Discussion: Is there a way to do the EIS for less; is there a conflict of interest for URS Corporation; good price and URS Corporation did the original EIS; etc.

Ron Schulhofer, Public Works Director, noted staff has a quote from the Engineer of Record, URS Corporation, and negotiated the hours they will spend on each task. He indicated the price for the project is a good one.

Mr. Clague noted the decision to build the bridge (at Fort Hamer Road) was made by the Board in the fall of 2009. The additional costs were caused by the Waterlefe Master Property Owners' Association filing a legal objection to the EIS.

Discussion: How much has been spent so far; is there a realistic figure for the bridge; funding is available; etc.

Dan Schlandt, Deputy County Administrator, reported the County went through a Capital Improvement process to determine the validity of a bridge. He would prefer not to incur this expense; however, it has become necessary to move to the next step. A total of \$3.5 million has been spent on engineering, right-of-way, and other related expenses.

Discussion: This EIS will not only address traffic counts but also the environmental comparison between the alignments; money is being spent needlessly; bridge is needed from a public safety aspect; money in Impact Fee District D; etc.

Jim Seuffert, Financial Management Director, confirmed the old Impact Fee Districts still have funds.

Motion was made by Mr. McClash, seconded by Mrs. Hayes, carried 6 to 1, with Ms. Whitmore voting nay, to authorize the County Administrator or his designee to execute Change Order 1 to Agreement with URS Corporation Southern, for **bridge design over Manatee River**; increase of \$240,910, adjusted total \$3,146,810.55. [BC20110510DOC019](#)

WEST COAST INLAND NAVIGATION DISTRICT

Mr. McClash noted **Michael Pirolli** (letter dated 4/2/11) expressed concern regarding the unsafe, shallow-water depth in the channel, which runs from Longboat Key Pass north along Leffis Key, and up toward First Street in Bradenton Beach (see aerial). He noted the letter to West Coast Inland Navigation District (WCIND) should request WCIND to survey the whole channel including the area indicated by Mr. Pirolli.

Mr. Chappie noted the requests were the intention of the City of Bradenton Beach. He resides near the channel.

Charlie Hunsicker, Natural Resources Director, was available to answer questions.

Motion was made by Mr. Chappie and seconded by Mr. McClash, for execution of the revised letter to WCIND requesting implementation for the following projects: (1) Bathymetric Survey for the City of Bradenton Beach for the unmarked near shore channel extending from the Coquina Bayside north boat ramp to approximately 4th Street South, \$15,000; (2) Bathymetric survey for the City of Bradenton Beach for the north Coquina Bayside boat ramp intracoastal access channel, \$25,000; and, (3) Waterway dredging on behalf of the City of Anna Mara pursuant to the noticed general permit, issued to WCIND for previously identified impaired waterways, \$117,000. Following discussion, the motion carried 7 to 0. [BC20110510DOC056](#)

LAND DEVELOPMENT CODE AMENDMENT

Public hearing (Notice published) was held to consider

ORDINANCE 11-05 – SIGN ORDINANCE

(NO ACTION REQUIRED; SECOND PUBLIC HEARING SCHEDULED ON JUNE 2, 2011)

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT; AMENDING SECTION 201, LAND DEVELOPMENT CODE, TO REPEAL ALL SIGN-RELATED DEFINITIONS; REPEALING IN ITS ENTIRETY SECTION 724, SIGNS, LAND DEVELOPMENT CODE; CREATING A NEW SECTION IN THE LAND DEVELOPMENT CODE FOR SIGN-RELATED DEFINITIONS IN SECTION 201, DEFINITIONS, TO CREATE NEW SIGN DEFINITIONS; AMENDING SECTION 304 REGARDING AUTHORITY OF HEARING OFFICERS TO GRANT ADJUSTMENTS TO SIGN REGULATIONS; CREATING A NEW SECTION 724 IN THE LAND DEVELOPMENT CODE CONSISTING OF NEW SIGN REGULATIONS; PROVIDING FOR A PURPOSE AND INTENT; PROVIDING FOR A

PERMITTING PROCESSES FOR SIGNS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF THE SIGN REGULATIONS; PROVIDING FOR EXCEPTIONS FROM REQUIREMENTS FOR STANDARDS FOR SIGN PERMITS; PROVIDING FOR REVOCATION OF SIGN PERMITS; SETTING FORTH AN APPEAL PROCESS REGARDING SIGN PERMITS; AMENDING SECTION 502.7.4, POSTED NOTICE, REGARDING SIGN REGULATIONS; AMENDING SECTION 603.4 PLANNED DEVELOPMENT DISTRICTS WITH SPECIFIC REFERENCE TO SIGNS; AMENDING SECTION 737, ENTRANCEWAYS REGARDING SIGN REGULATIONS; AMENDING SECTION 603.3 REGARDING PLANNED DEVELOPMENT AND 603.14, PDW-PLANNED DEVELOPMENT-WATERFRONT WITH REFERENCE TO SIGN REGULATIONS; AMENDING 604.10 NORTH CENTRAL OVERLAY DISTRICT WITH REFERENCE TO SIGN REGULATIONS; AMENDING SECTION 713, VISIBILITY TRIANGLES; AMENDING SECTION 911, VACATION OF STREETS AND TRANSFER OF PLATS; AMENDING SECTION 709.3.6 LIGHTING FOR SIGNS; AMENDING OTHER SECTIONS OF LAND DEVELOPMENT CODE FOR INTERNAL CONSISTENCY; PROVIDING FOR SEVERABILITY IN GENERAL; PROVIDING FOR SEVERABILITY WHERE LESS SPEECH RESULTS; PROVIDING FOR SEVERABILITY OF PROVISIONS PERTAINING TO PROHIBITED SIGNS; PROVIDING FOR SEVERABILITY OF PROHIBITION ON BILLBOARDS; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

Bob Schmitt, Building and Development Services Department, submitted requested language from the School Board. He utilized a slide presentation to highlight changes to the Ordinance, the process used to date, master sign plans, restricted temporary signs, sign matrix prohibited signs, and exempt signs. There will be no changes to billboard regulations.

Discussion: Working with businesses on U.S. 41 by deferring costs to update signs; enhanced landscaping with signs; sandwich signs; political signs; religious symbols are exempt; banners would fall under Restricted Temporary Signs; anything parochial should be exempt; etc.

Sarah Schenk, Deputy County Attorney, explained provisions of political signs (Section 724.14.1 - Exhibit C) were taken verbatim from *Florida Statutes* and the County cannot be more restrictive. Pursuing language for requiring permits for political signs could cause legal issues.

Discussion: Definition of abandoned signs has no consequences; Chapter 12 of LDC addresses violations; sign matrix should allow changeable LED; historical markers are exempt; the County needs language similar to language requested by the School Board; sandwich signs should be exempt but limited to a certain height; LED standards; application process for signs; sign height is 25 feet for all commercial and industrial office districts, and an adjustment up to 20 percent can be requested; need a permit to get a sign; home occupations prohibit signage; permit fee for political signs; five-foot setbacks; animation, scrolling and flashing on LED signs to be discussed at a future meeting; signs affixed to trees and poles; want churches, parks and schools to be exempt; clarification on sign matrix to prevent sign pollution; etc.

Kim Binkley-Seyer, Seyer Group, noted the company works closely with the commercial industry and sign permits are being submitted prior to building plans. A study by Best Buy showed 17 percent of customers stopped, because they saw the sign. Seventy percent of McDonald's business is impulse from the first glance of the sign. She requested the Board consider a maximum height of 30 or 35 feet.

Mark Ziegast expressed concern with signs in rights-of-way.

Pam DeDea, Oakmont Capital Resources, requested the height adjustment be increased to 25 percent.

Mr. Schmitt reviewed items to be clarified at the next hearing: religious signs and banners being exempt, along with School Board and Parks and Recreation; sandwich sign size; applying

setbacks to 32-square-foot political signs; a video depicting LED signs (examples of scrolling, flashing, animation); landscape enhancement perimeters; spelling out the cumulative total percentage of square footage; changeable copy signs and LED are the same and allow them on collector or arterial roads and defining these roads; residential home occupational signage on the sign matrix and perimeters; real estate, garage sales, and political signs out of the right-of-way; 35 feet height instead of 25 feet; and 25 percent for adjustments.

[BC20110510DOC057](#)

TEFRA PUBLIC HEARING – CITY OF BRADENTON

The public hearing was reopened from earlier in the meeting

Mr. Clague reported one of the listed projects in the Resolution is located in the County. The Board should adopt revised Resolution **R-11-099** in the form submitted to the Clerk.

Motion was made by Mr. Gallen, seconded by Mr. Chappie, and carried 7 to 0, to adopt the revised Resolution.

[BC20110510DOC016](#)

Recess/Reconvene. All members present.

COMPREHENSIVE PLAN - EVALUATION AND APPRAISAL REPORT

Public hearing (Notice published) was held to discuss the draft Evaluation and Appraisal of The Manatee County Comprehensive Plan.

Kathleen Thompson, Building and Development Services Department, stated due to recent legislative changes, staff is unsure if the Evaluation and Appraisal Report (EAR) will be transmitted to the Department of Community Affairs. She explained it will be presented in the future for approval by the Board, once all of the issues have been addressed.

Kelly Klepper, Kimley-Horn and Associates, Inc., utilized a slide presentation to discuss what an EAR is, what is in the EAR, community involvement, existing land use, land use trends, future land use, major issues, element assessments (12), and the next steps in the EAR process.

Discussion: Commercial nodes; summary of future transportation goals; clearly define urban infill; activity centers; growth management bill defines sprawl; future work session; etc.

John Osborne, Planning and Zoning Official, was available to answer questions. [BC20110510DOC058](#)

LEGISLATIVE UPDATE

Nick Azzara, Information Outreach Coordinator, summarized bills that passed and failed during the legislative session. Port Manatee’s local bill, House Bill 869, transferred approximately 523 acres of sovereign submerged lands to Port Manatee, which will help the Port improve and expand infrastructure to capitalize on the Panama Canal expansion. Department of Juvenile Justice Reform will reduce counties cost share by \$20 million (new funding formula) and give the authority to issue civil citations instead of having teenage suspects in detention facilities.

He submitted a list of other Board priorities and interests and whether they passed or failed.

Discussion: Have Representative Jim Boyd and Legislative Liaison Cari Roth on a future agenda; lobbyists and legislators are communicating via text messaging, and we need to figure out a way to include these in the public record; letters of appreciation to the legislative delegation will be ready at an upcoming meeting; etc.

[BC20110510DOC059](#)

COMMISSIONERS’ COMMENTS

Lunch and Learn

Mrs. Hayes stated staff organized a recent “Lunch and Learn” in which the Manatee County Sheriff’s Office made a presentation on crime prevention.

[BC20110510DOC060](#)

Groover's Market, Palmetto

Mr. Gallen expressed his appreciation to Representative Darryl Rouson for his assistance regarding Groover's Market. [BC20110510DOC060](#)

Our Daily Bread and Food Bank

Ms. Whitmore announced the Manatee County School Board, Our Daily Bread, and the Food Bank will meet to discuss if those agencies could use food from the School Board, which is being thrown away. She thanked Bob Gause, School Board Chairman, for his help. [BC20110510DOC060](#)

One Stop Resource Center

Ms. Whitmore noted the Center is in need of a nursing assistant or office person to volunteer in the medical wing. [BC20110510DOC060](#)

Medtec

Mrs. DiSabatino announced Medtec rolled off its first ambulance (the prototype) at Pierce Manufacturing Incorporated and plans to roll off 500 ambulances this year. Buyers come from all over the country to purchase ambulances, which is an economic boost to the County. [BC20110510DOC060](#)

Whitfield Homeowners' Association

Mrs. DiSabatino reported the Homeowners' meeting was a success, and the Manatee County Sheriff's Office was in attendance. The HOA would like to have a town hall meeting in October, and she will let everyone know when a date has been selected. [BC20110510DOC060](#)

Public Hearing Notifications

Mrs. DiSabatino questioned if the notice for rezoning could be increased from a 500-foot radius to a one-mile radius. Staff is considering an automated system where there will be no cost for emailing.

Discussion: Can discuss at a future meeting; should be a policy where staff should be contacting the community associations within a certain radius; will let the Board know what staff's procedures are outside of the Land Development Code; etc. [BC20110510DOC060](#)

Thoroughfare Noise Study

Ms. Whitmore presented copies of the proposed Thoroughfare Noise Stipulation Study as prepared by Siebein Associates, Inc. [BC20110510DOC061](#)

Industrial Heavy

Mr. McClash noted there are conflicting policies regarding the Industrial Heavy (IH) Future Land Use Category (FLUC), and he encouraged staff to focus on ways to prevent further issues such as in the case of Z-08-06 -Tarmac America LLC (5/5/11).

Discussion: Staff will look into IH FLUC as part of the LDC rewrite; public workshops to offer residents the option to change zoning district from Heavy Manufacturing to Light Manufacturing to give them other options; transfer of development rights policy; IH FLUC is a small portion of land in the County and do not want to lose it; etc. [BC20110510DOC060](#)

SEGWAYS

Motion

Mr. McClash moved to prohibit Segways on County properties except for use by law enforcement. The motion was seconded by Mrs. DiSabatino.

Discussion: If Segways are banned will have to look at banning motorized scooters and others; need to set policy before the RFP goes out for bid; allowing them on beaches and County properties can set the County up for lawsuits; do not support the motion, because staff is working on the RFP; Leffis Key; cities do not have an issue with Segways; should hold off on motion in order to talk to staff regarding the RFP; should allow the community to comment;

should talk to cities about each municipal policy; Segways are not allowed in preserves and are unregulated in parks; staff will come back with alternatives; etc.

Tedd Williams, County Attorney, commented that he equates Segways to other things that are dangerous such as skateboards or bicycles. He questioned if the Board wanted to prohibit Segways by policy (signage) or by ordinance.

Motion - Withdrawn

Mr. McClash **withdrew** the motion.

Motion

Mr. McClash moved that the RFP recommendation does not come back until the Board does a policy for Segways and possibly other motorized devices, scooters, etc. The motion was seconded by Mrs. DiSabatino, and a brief discussion ensued.

Motion was made by Mr. Chappie, seconded by Mr. McClash, and carried 7 to 0, to call the question. The motion carried 6 to 1, with Mr. Bustle voting nay. [BC20110510DOC062](#)

MEETING ADJOURNED

There being no further business, the meeting was adjourned.

Adj: 5:18 p.m.
/vj/qa

Minutes Approved: June 21, 2011