

**JUNE 2, 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  
Joe McClash

Also present were:

Ed Hunzeker, County Administrator  
Sarah Schenk, Deputy County Attorney  
Susan G. Romine, Board Records Director,  
representing R. B. Shore, Clerk of Circuit Court

Invocation by Rev. Dan Smith, Our Lady of the Angels.

All witnesses and staff giving testimony were duly sworn.

**AGENDA**

Agenda of June 2, 2011, and agenda update memorandum.

[BC20110602DOC001](#)

**CONSENT AGENDA**

Motion was made by Mrs. DiSabatino, seconded by Mrs. Hayes, and carried 7 to 0, to approve the Consent Agenda incorporating the language as stated in the recommended motions in the agenda memoranda. Items APPROVED:

**CLERK'S CONSENT CALENDAR**

[BC20110602DOC002](#)

**REFUNDS**

[BC20110602DOC003](#)

Darin McMurray/Lennar Homes - New Residential  
SMR Communities Joint Venture - Impact Fee

\$1,223.64  
\$25,534.91

**WARRANT LIST**

May 10, 2011 through June 1, 2011

[BC20110602DOC004](#)

**MINUTES**

April 12, April 21, and April 26, 2011

[BC20110602DOC005](#)

**ACCEPT**

**Contract Documents** (Pursuant to Manatee County Code, Chapter 2-26):

1. **Parks Architectural/Engineering Services** - Addendum Four to Agreements with Wilson Miller, Inc.; CPH Engineers, Inc.; and IBI Group, Inc. extending the expiration dates one year (8/8/11-8/7/12). [BC20110602DOC006](#)
2. **Pre-Manufactured Transit Bus Shelters** - Addendum Two to Agreement with Tolar Manufacturing Company, Inc. extending the expiration date one year (6/23/11-6/22/12). [BC20110602DOC007](#)

**COUNTY ADMINISTRATOR**

**BEHAVIORAL HEALTH TREATMENT**

Execution of letter of support for a grant application to Circuit 12 Court Administration for Behavioral Health Treatment Court Collaborative in The Twelfth Judicial Circuit, Sarasota and Manatee Counties.

[BC20110602DOC008](#)

**FINAL PLAT**

**Hope Landing**

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 Manatee County Habitat for Humanity;
4. Agreement Warranting Required Improvements with Manatee County Habitat for Humanity; **and** Defect Security (Surety Bond 1060129), \$26,299.78;
5. Declaration of Covenants, Conditions, and Restrictions for Hope Landing. [BC20110602DOC009](#)

**PLANNING COMMISSION JOURNAL**

Approval of payment for subscriptions to the Planning Commissioners Journal to be sent to the seven Manatee County Planning Commissioners, \$168. [BC20110602DOC010](#)

(End Consent Agenda)

**ZONING**

Public hearing (Notices published) was held to consider

**Z-11-04 PARKWAY LAND TRUST 1/301 COMMERCIAL REZONE**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR A REZONE OF APPROXIMATELY 0.6 ACRES NORTH OF U.S. 301 AND APPROXIMATELY 1,200 FEET WEST OF ERIE ROAD, PARRISH, FROM THE **RSF-1** TO THE **GC** ZONING DISTRICT; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

Planning Commission recommended APPROVAL.

Based upon the staff report, evidence presented, comments made at the public hearing, and the action of the Planning Commission, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mrs. Hayes moved to ADOPT Manatee County Zoning Ordinance **Z-11-04**, as recommended by the Planning Commission. The motion was seconded by Mrs. DiSabatino and carried 7 to 0. [BC20110602DOC011](#)

Public hearing (continued from 5/5/11) was held to consider

**PDEZ-08-20(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA B**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 39 ACRES GENERALLY LOCATED NORTHEAST OF PORT MANATEE ON THE EAST SIDE OF U.S. 41, NORTH OF BUCKEYE ROAD AND SOUTH OF THE COUNTY LINE, PALMETTO, FROM **A** TO THE **PDEZ** ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 39± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT-RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (39± ACRE REZONE; 1,041± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA B).

Planning Commission recommended APPROVAL with Stipulations.

Kathleen Thompson, Building and Development Services Department, referred to a Zoning Map of Area B to depict both IL and IH uses in Area B.

Based upon the staff report, evidence presented, comments made at the public hearing, the action of the Planning Commission, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mr. Bustle moved to ADOPT Manatee County Zoning Ordinance **PDEZ-08-20(Z)(G)(R2)**; APPROVE the Revised General Development Plan with Stipulations A.1-2, B.1-4, and C.1-2; GRANT Special Approval for a project within the Entranceway, for projects exceeding a floor area ratio (FAR) of 0.35, and for the potential of up to 30,000 square feet in retail sales for parcels that meet commercial locational criteria; ADOPT the Findings for Specific Approval; and GRANT Specific Approval for a project that was previously GRANTED Specific Approval for an alternative to Section 702.5.2.3 of the Land Development Code, as recommended by the Planning Commission. The motion was seconded by Mr. Chappie and carried 7 to 0. [BC20110602DOC012](#)

Public hearing (Notices published) was held to consider

**PDPI-09-01(G)(R) FPL MANATEE SOLAR ENERGY CENTER**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THE FOLLOWING:

- CONVERSION OF ONE (1) SOLAR THERMAL FIELD TO PHOTOVOLTAIC TECHNOLOGY (INCLUDING SWITCHYARD) AND ELIMINATION OF TWO (2) PREVIOUSLY APPROVED SOLAR THERMAL FIELDS;
- ADDITION OF AN ACCESS POINT ON CORBETT JOHN ROAD;
- ADDITION OF A 5,000 SQUARE-FOOT MAINTENANCE/OPERATION FACILITY AND REMOVAL OF A SOLAR STEAM GENERATION AREA;

THE SITE IS ON THE NORTH SIDE OF S.R. 62, APPROXIMATELY FIVE MILES EAST OF U.S. 301, AT 19050 S.R. 62, PARRISH, SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (PROJECT AREA 883± ACRES). Staff recommended APPROVAL with Stipulations.

(Note: The Proof of Publication indicates the site is approximately one mile east of U.S. 301)

Joel Christian, Building and Development Services Department, referred to a mitigation site location map to review the project boundary and the mitigation area. Tree removal would have required replacement of 2,000 trees or over \$600,000 paid to the Tree Trust Fund. The project exceeds State and County requirements for wetland impacts.

Based upon the staff report, evidence presented, comments made at the public hearing, and finding the request to be CONSISTENT with the Manatee County Comprehensive Plan and the Manatee County Land Development Code, as conditioned herein, Mrs. DiSabatino moved to ADOPT Manatee County Zoning Ordinance **PDPI-09-01(G)(R)**; APPROVE the Revised General Development Plan with Stipulations A.1, B.1-5, and C.1; ADOPT the Findings for Specific Approval; and GRANT Specific Approval for an alternative to Section 714.8.7 of the Land Development Code, as recommended by staff. The motion was seconded by Mrs. Hayes and carried 7 to 0. [BC20110602DOC013](#)

**COMPREHENSIVE PLAN**

**David Quinn**, representing the Cascades, referred to a slide presentation and requested a County-initiated change to the Comprehensive Plan Future Land Use Map from Industrial Heavy (IH) in the area [Zoning Ordinance Z-08-06 denied on May 5, 2011] to Industrial Light (IL), and the discouragement of future, heavy industrial use near Cascades.

Motion was made by Mr. McClash to place this item on a future agenda. The motion was seconded by Mrs. DiSabatino.

Sarah Schenk, Deputy County Attorney, stated an opinion will be issued from the County Attorney's Office regarding legal and staff issues on this matter.

Following a brief discussion, the motion carried 7 to 0.

[BC20110602DOC014](#)

**ZONING**

Public hearing (Notices published) was held to consider

**PDMU-98-03(P)(R) 1187 UPPER JAMES OF FLORIDA LLC/BEARDED CLAM RESTAURANT AND TIKI BAR**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING ORDINANCE PDMU-98-03(Z)(P) PERTAINING TO APPROXIMATELY 6.2± ACRES WEST OF U.S. 41 AND APPROXIMATELY 1,500± FEET SOUTH OF 69TH AVENUE WEST AND APPROXIMATELY 400± FEET NORTH OF PEARL AVENUE AT 7150 NORTH TAMiami TRAIL IN THE PDMU/WR/AI (PLANNED DEVELOPMENT MIXED USE/WHITFIELD RESIDENTIAL/AIRPORT IMPACT OVERLAY DISTRICTS) ZONING DISTRICT TO MODIFY STIPULATIONS PERTAINING TO THE OPERATION OF OUTDOOR DINING AND ACCESSORY OUTDOOR ENTERTAINMENT AND MODIFICATIONS TO PORTIONS OF THE PRELIMINARY SITE PLAN RELATED THERETO; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Staff recommended APPROVAL with Stipulations.

Sharon Tarman, Building and Development Services Department, distributed revised [Stipulations](#).

**Bill Galvano**, attorney representing the applicant, provided a history of the application. The former business was a night club, and the current business is a family establishment with musical entertainment at the outdoor tiki bar. The existing Stipulation requires a maximum decibel level of 50. The County Attorney's revision to the applicant's proposed Stipulation indicates the applicant is bound by the existing Noise Ordinance with time restrictions. The applicant requested compliance with the Noise Ordinance (08-62), as opposed to a heightened standard and unequal treatment. Enforcement of a different measured decibel level at this site would be difficult. The Consent Injunction to stop the music has caused business to plummet and has affected employees. Regarding outdoor entertainment, the applicant requested adoption of the County Attorney's proposed [Stipulation 5](#).

Ms. Tarman referred to a slide presentation and reviewed the history of the site and surrounding zoning. Specific Approval is required due to deficient parking and to address the compatibility of the noise. Due to the close proximity of the stage to the residential area to the west, there is no way to mitigate the adverse noise impact, and staff recommended [Stipulation 4](#) (in the handout) with sound not to exceed 50 decibels at the property line.

Ms. Schenk explained the revised stipulations were a result of additional material submitted yesterday and the desire to regulate any sound, not just music.

Discussion: Judges have struck down the Noise Ordinance; the existing Stipulation, as written, means no amplified outdoor music is allowed; recent approval of amplified sound at the fishing tournament; etc.

James Minix, Chief Deputy County Attorney, stated the subjective portion of the Noise Ordinance, which requires no decibel level meter, was struck down by a judge; however, the County appealed, and the ruling was overturned by the Circuit Court. Due to enforcement difficulties, the State Attorney, the Sheriff's Office, and County Attorney's Office have had discussions, and the State Attorney's Office indicated they will prosecute only cases with noise meter results.

Ms. Schenk indicated the County Attorney's revised **Stipulation 5** would be legal as it states outdoor, amplified sound "shall not be allowed." The only outdoor entertainment that shall be allowed is non-amplified live music between noon and 7:00 p.m.

Discussion: Stipulation was needed due to the former night club; boats and engines are as loud as the music; parking; sound is not tested unless there is a complaint; staff recommended motion excludes the word amplified; decibel readings during the Consent Injunction; noise meter sent to be calibrated; Woody's River Roo noise issue; etc.

John Barnott, Building and Development Services Director, stated the noise measurements were taken with improperly calibrated equipment; therefore, the readings cannot be used.

Mr. Minix clarified that enforcement of the Noise Ordinance on this facility will state:

"No person shall operate or cause to be operated from any source sound, which when measured at the property line of the property where the sound is being generated, exceeds 60 decibel levels during the hours 7:00 a.m. and 10:00 p.m. at the property line of the noise source, or 55 decibel levels during the hours between 10:00 p.m. and 7:00 a.m. at the property line of the noise source."

The equal protection argument does not apply in this case, as the current stipulations were voluntarily entered into by the former owner of the property and the County, as well as new owners of the Bearded Clam. Any modified stipulation will require modification of the current Consent Injunction

Discussion: Fishing tournament did not violate any ordinance; live music was held inside; existing stipulation has worked for years; tweaking the decibel level; content of sound is a constitutional issue; if application were before the Board today, it would be denied due to the proximity to the neighborhood and no buffering; etc.

**Tim Rocklein**, President of the Whitfield-Ballentine Manor Association, indicated the Association supports the Bearded Clam and the Tiki Bar; however, the Association opposed the request due to strip noise and parking stipulations from the current ordinance. He referred to a slide presentation to review the history of the site and the noise and parking violations. He requested approval of the staff recommendation.

**Wade Yarchan** (submitted handout), **Norm Luppino**, **Sally Armendarez**, **Thomas Santoro** (submitted handout), **Ron Getman** (submitted handout), **Bob Thomas**, **Dan Young** (submitted petition), **Dennis Crooks**, **Emily Kropf**, **Mike Holderness**, and **Mike Holderness, Sr.** (submitted letter and broker license) voiced opposition to the request and expressed concern regarding the violations of the zoning ordinance, devaluation of property, noise, amplified music, and parking issues.

**Lamont Foster**, **Diane Pearl**, **David Fernandez**, **Michael Carroll**, **Robert Nichols**, **Eugene Zickafoose**, **Navid Kichi**, **Jessica Lample**, **Steve Cagle**, **James Kilroy**, **Ron Dudeck**, **Tina Barnes**, **Carl Scarlott**, **Doug Puloski**, **William Banks**, **Brittney Woellmer**, **Stacey Sherfy**, **Katrina Gorman**, **Justin Anderson**, **Jessica Kawczynski**, **Dan Brown**, and **Dennis Crooks** spoke in support of the request noting the success of the new establishment, the loss of an abandoned neighborhood building, and employment opportunities. Seventeen speakers were employees, who noted a decrease in business due to lack of music and expressed concern for their jobs.

Mr. Galvano stated the applicant wants to comply with the Noise Ordinance adopted in 2008.

**Terri Pulaski**, owner of Bearded Clam, distributed a graph depicting weekly net sales before and after the music was stopped by the County Consent Injunction (4/26/11). She indicated she was never aware of the Noise Stipulation.

Ms. Tarman stated staff's original stipulation was proposed as mitigation similar to the existing stipulation, due to limited alternatives for this property. Staff presented three options: (1) leave the stipulation as is; (2) staff proposed stipulation to limit hours and decibel level to 50; or (3) the applicant's stipulation with the County Attorney's revisions.

Discussion: Solo performers always use a microphone with a small amplifier; entertainers would be limited to perform without amplification; etc.

Mr. Minix stated the Noise Ordinance does not address amplified or non-amplified noise, but measured decibel levels.

Ms. Schenk clarified the current Stipulation does not allow outdoor, amplified sound. The applicant's request was to allow amplified sound.

Mr. Barnott submitted two Noise Survey Forms from April 29th and April 30th. Both reports were invalid, because the ambient noise level was higher than the noise source.

Discussion: Owners ignored violations; health, safety and welfare of the people of Manatee County (Policy 2.6.1.1); cannot support changes to the original ordinance; etc.

**Motion - Died**

Motion was made by Mrs. DiSabatino to support the original injunction and the original ordinance as stipulated by the staff report (pages 201-237). The motion **died** due to no second.

**Motion**

Following clarification of the motion (by Ms. Schenk), Mrs. DiSabatino moved to DENY Ordinance **PDMU-98-03(P)(R)**, which means we keep the existing ordinance in place with Stipulations 1 through 8 (pages 208-210) including Stipulation 4 as written by staff prior to today. The motion was seconded by Mr. McClash.

John Osborne, Building and Development Services Department, stated the stipulations are for all the properties (the hotel, the restaurant, and the marina) in the application. Staff wanted to ensure the marina was not impacted by Stipulation 4.

Discussion: The decision deals with the property; depending on the noise, the decibel meter becomes an enforcement issue; future urban redevelopment will include what outdoor sound/music is acceptable; increased outdoor music hours; compromise regarding amplified music for solo performers; owners disregarded the ordinance; the Noise Ordinance should be applied and enforced for the entire County; quality of life for the residents; etc.

Ms. Schenk noted the applicant has not agreed to amend the Consent Injunction unless their request is approved.

(Gavel to Mr. Chappie, presiding)

**Motion - Amended**

Ms. Whitmore moved to amend the motion to allow a single person for entertainment with the sound not to violate the Noise Ordinance. The motion was seconded by Mr. Bustle.

Ms. Schenk indicated a zoning ordinance is not the proper mechanism to regulate the size of a band or details of musical operations and could be challenged in court.

Motion was made by Ms. Whitmore to call the question. Motion **died** for lack of a second.

Mr. Bustle **withdrew** his second to the amended motion; therefore, the motion **died**.

(Gavel to Ms. Whitmore, presiding)

**Motion – Restated**

Based upon the staff report, evidence presented, comments made at the public hearing and finding the request to be consistent of the Manatee County Comprehensive Plan and the Manatee County Land Development Code, Mrs. DiSabatino restated her motion to APPROVE Ordinance **PDMU-98-03(P)(R)** with Stipulations 1 through 8 (clarified pages 212-213 in the staff report) as recommended by staff. Motion was seconded by Mr. McClash.

Discussion: Consent Injunction; County Attorney Office’s information in Stipulation 4 combines 4 and 5 of the previous Zoning Ordinance; leave Stipulations 4 and 5 as is and renumber the stipulations; etc.

Following discussion, the motion carried 4 to 3, with Mr. Bustle, Mrs. Hayes, and Ms. Whitmore, voting nay. [BC20110602DOC015](#)

**PORT MANATEE ENCOURAGEMENT ZONE**

Public hearings (continued from May 5, 2011, and Notices published) were opened to consider

**PDEZ-08-19(Z)(G)(R3) PORT MANATEE ENCOURAGEMENT ZONE, AREA A**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 29.3 ACRES IN THE GENERAL AREA OF SOUTH DOCK STREET, U.S. 41 AND HARLEE ROAD, AT 12257 U.S. 41 NORTH, 12291 U.S. 41 NORTH, AND 12205 U.S. 41 NORTH, FROM **HM** TO THE **PDEZ** ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 29.3± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (29.3 ACRE REZONE; 325.5± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA A).

Planning Commission recommended APPROVAL.

**Gerald Hill**, attorney for Highway 41 Palmetto LLC, and owner of two parcels within this area, requested construction service establishment, building materials establishment, and motor vehicles sales, rental and leasing uses are retained to preserve the marketability and value of the property and allow for uses, which are important to these parcels.

Motion was made by Mrs. DiSabatino, seconded by Mrs. Hayes, and carried 7 to 0, to continue PDEZ-08-19(Z)(G)(R3) to June 7, 2011, at 1:30 p.m., or as soon thereafter as possible.

and

[BC20110602DOC016](#)

**PDEZ-08-21(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA C**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 120.5 ACRES GENERALLY LOCATED SOUTH OF PORT MANATEE ON THE WEST SIDE OF U.S. 41, NORTH OF BISHOP HARBOR ROAD/MOCCASIN WALLOW ROAD FROM **PDR** AND **LM** TO THE **PDEZ** ZONING DISTRICT AND APPROXIMATELY 35.2 ACRES GENERALLY LOCATED SOUTH OF I-275 ON THE WEST SIDE OF U.S. 41, FROM **PDMU** TO THE **PDEZ** ZONING DISTRICT, FOR A TOTAL ACREAGE OF 155.7± ACRES; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 155.7± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A

LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (155.7± ACRE REZONE; 254.7± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA C).

Planning Commission recommended APPROVAL.

Motion was made by Mrs. Hayes, seconded by Mr. Gallen, and carried 7 to 0, to continue PDEZ-08-21(Z)(G)(R2) to June 7, 2011, at 1:30 p.m., or as soon thereafter as possible.

and

[BC20110602DOC017](#)

**PDEZ-08-22(Z)(G)(R2) PORT MANATEE ENCOURAGEMENT ZONE, AREA D**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, REGARDING LAND DEVELOPMENT, AMENDING THE OFFICIAL ZONING ATLAS (ORDINANCE 90-01, THE MANATEE COUNTY LAND DEVELOPMENT CODE), RELATING TO ZONING WITHIN THE UNINCORPORATED AREA; PROVIDING FOR THE REZONING OF APPROXIMATELY 57 ACRES GENERALLY LOCATED SOUTH OF BUCKEYE ROAD ON THE EAST SIDE OF U.S. 41, NORTH OF 113TH STREET EAST, FROM LM TO THE PDEZ ZONING DISTRICT; APPROVING A REVISED GENERAL DEVELOPMENT PLAN TO INCLUDE THESE 57± ACRES AND ADD ADDITIONAL USES TO THE ENTIRE SITE FOR A MIXTURE OF INDUSTRIAL, INDUSTRIAL SUPPORT, AND PORT RELATED USES; SUBJECT TO STIPULATIONS AS CONDITIONS OF APPROVAL; SETTING FORTH FINDINGS; PROVIDING A LEGAL DESCRIPTION; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE (57± ACRE REZONE; 190± TOTAL ACRES FOR GENERAL DEVELOPMENT PLAN - AREA D).

Planning Commission recommended APPROVAL.

Motion was made by Mrs. Hayes, seconded by Mrs. DiSabatino, and carried 7 to 0, to continue PDEZ-08-22(Z)(G)(R2) to June 7, 2011, at 1:30 p.m., or as soon thereafter as possible.

[BC20110602DOC018](#)

**LAND DEVELOPMENT CODE AMENDMENT**

Public hearing (Notices published) was opened to consider

**ORDINANCE 11-05 – SIGN ORDINANCE**

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.

Motion was made by Mrs. Hayes, seconded by Mrs. DiSabatino, and carried 7 to 0, to continue Ordinance 11-05 to June 7, 2011, at 1:30 p.m., or as soon thereafter as possible. [BC20110602DOC019](#)

Recess/Reconvene. All members present.

PROVIDENCE LOGISTICS (PROJECT ROYAL)

**Carol McGuire**, attorney representing Providence Logistics, noted they are venturing with CSX Transportation for a major freight facility for Express Rail with the first link directed to Kingsbury, Indiana. Confidentiality associated with Project Royal has been waived, and the project is known as the Green Express Project. She referenced letters from the **Indiana State Department of Agriculture** expressing interest in a good relationship for the project.

**Chris McGrath**, Providence Logistics, stated this project is to bring together the southern point of a transportation network to cover the eastern half of the United States on 2,300 acres of industrial land with connection to Port Manatee (the closest port to the Panama Canal).

**David Berner**, agent for Sweetwater Preserve and representing property owners for Newport Isles to the east of Curiosity Creek, expressed support of this project.

Mr. McGrath referred to a slide presentation and stated this project is about connecting products to the consumption zone, particularly in the food and perishable industry. The Green Express will connect Port Manatee to Chicago and New York/New Jersey markets. Providence Logistics is a real estate development company that creates the physical platform to accommodate unit trains from a railroad. The physical geometry to accommodate two miles of rail for loading and unloading is important, thereby, making the Curiosity Creek property instrumental. Rail is eight times more fuel efficient than trucking. The groundbreaking for the refrigerated building is anticipated to begin by October 1, 2011, and be operational by April-May 2012.

**Tom Shurstad**, Green Express, continued the slides and noted the entities involved. He stressed the importance of a unit train as a direct rail system for delivery of fresh products. CSX has established a schedule from Port Manatee to Kingsbury, Indiana, in a 56-hour train, with a 24-hour period for unloading/loading and return to Port Manatee with other consumables. He displayed a slide of a refrigerated car, noting it accommodates four truck loads of freight. Transporting freight from South America, Central America, and Mexico through Port Manatee will cut 2-4 days off shelf life.

**Bob O'Malley**, CSXT Governmental Affairs, continued the slide presentation and reviewed the sales and marketing campaigns for shippers, customers, and third party logistic groups. CSXT stands behind this project financially and commercially. The CSX de Mexico office and other strategies and tactics to sell the service were reviewed.

Mr. McGrath referred to slides of the CSX Select Sites Program Parks Plan that identified 10 to 12 shovel-ready sites. Both Manatee and Kingsbury are candidates as CSX Select Sites. Slides of the Kingsbury and Manatee Master Site Plans were viewed depicting the required rail logistics for the unit train, as well as warehousing, food processing, and cold storage facilities.

Mr. O'Malley noted Governor Scott and the Florida Department of Transportation (FDOT) are supportive of ports, and there are opportunities to partner with the state. The project is a magnet for shippers, as the regional development group will recruit prospects and market properties for development of surrounding parcels, and present public/private partnership opportunities.

Ms. McGuire stated the immediate economic impact for the Green Express would mean 300-500 jobs in Manatee County and construction improvements of \$15 million dollars. Logistics economic impact with development of the 2,300 acres to support rail and facilities would create up to 24,000 jobs in the County and construction improvements of \$12 million dollars, with long term improvements of \$1.5 billion dollars. Construction activity will create 200-300 jobs annually. The site plan indicates the South Dock Street extension is an integral component of bringing road and rail access to the Curiosity Creek property. Prior action (5/24/11) was not to consider South Dock Street if it interferes with Project Palm. Since Project Palm is confidential, she requested the Board direct staff to look at how the South Dock Street extension could be evaluated in conjunction with Project Palm.

Discussion: Options for Piney Point and South Dock Street; at-grade option; alternatives for federal funding; CSX role; etc.

David McDonald, Port Director, indicated cargo of at least one ship per month is being transported across U.S. 41 to the HRK properties. Each ship requires over 1,000 truck loads over three or four days. Past meetings with FDOT, County staff, and interested parties reviewed the at-grade crossing at Piney Point Road that would lead to an eventual flyover. The Port has not made a decision regarding access to the Encouragement Zone (EZ) and awaits a decision by FDOT or the County. The Port Authority has a contractual right and obligation with HRK to bring dredge materials across U.S. 41 and have a corridor for the future. Legal staff will review this issue and provide a report.

Discussion: Board and Port Authority have to look at EZ and North County Overlay as a region; cannot afford to make a decision that would affect another property in the region; mobility for all properties can be accommodated; costs to move freight to a landside destination; efficient movement of freight; temperature regulations; cost factor for interconnection road to deliver containers without meeting regular highway and transportation standards; etc.

Mr. McGrath concurred that a refrigerated facility on Port property is a benefit as some customers would prefer the Port secure zone. It would benefit all properties in the EZ to have a spine road run the length of the EZ. The road could be an at-grade, signalized intersection with an eventual flyover of U.S. 41. Providence Logistics has no predetermined location.

Discussion: Comprehensive Plan identifies Piney Point Road as 250 feet; Port Connector Road; Comprehensive Plan envisions the grade separation of U.S. 41; this is a staging issue; vote at Port meeting was to look at all road options for mobility for the EZ and the region; Port Manatee Master Plan includes concept of a cargo corridor between the Port and the EZ, which could lie along South Dock Street to facilitate the movement of commodities and shipments on both sides of U.S. 41; the motion allowed review of road alternatives with sensitivity to Project Palm; etc.

Ms. McGuire requested staff look at the extension of South Dock Street across U.S. 41 in light of the Project Palm project to determine whether road access can be developed consistent with the site plan provided to the County for the Providence Logistics/Green Express layout.

**Stanley Riggs**, representing Port Manatee Commerce Center, noted vigilance to protect their interest and accessibility to the Port and U.S. 41.

William Clague, Deputy County Attorney, stated the Board should be acting in the capacity of planning for the economic and business development of the region and the Port as a whole, not favoring one property owner. Regarding roads and infrastructure, the Board should keep the same goal based upon the best interest of the public welfare. The motion last week allows staff to look at the South Dock Street option, but would not allow them to recommend it if Project Palm objected. The Board must make a policy decision, and staff should talk with Project Palm regardless, because the Board authorized an incentive package for Project Palm.

Discussion: Prefer a more open motion; does this affect Project Palm; Board cannot be negotiating with private companies; staff to work with Project Palm; etc.

Ed Hunzeker, County Administrator, recommended reconsideration of the motion as it appears the Board has given more rights to Project Palm than others in negotiations. It would be helpful to the County if Project Palm knew they had equal footing with others in the negotiation.

Mr. Clague concurred stating it is best to enter negotiation with options open.

Motion was made by Mr. Chappie to **reconsider** the motion (5/24/11) to rule out South Dock Street as an access if it jeopardizes Project Palm. The motion was seconded by Mrs. Hayes.

Discussion: Expense for the extension to this road; County does not have the funds; Comprehensive Plan intent to insure connectivity to the EZ; applicant could submit a site plan administratively, and if it meets the approved General Development Plan, could get a permit; future talk should include financing; jeopardize economic incentive initiative; etc.

Mr. Hunzeker indicated the location of the facilities proposed by Project Palm needs to be evaluated in light of the Port's dredge pipeline, the location to the stacks, and transportation needs to and from the site. Future discussion should occur.

**Joe Mikes**, Providence Logistics, indicated willingness to work with the County and/or Project Palm to make this a successful project.

Following the discussion, the motion to reconsider carried 7 to 0.

Mr. Clague clarified that the Board wants to take the original motion that assigns staff to look at all options, which was made by Mr. Bustle at the last meeting.

Mr. McClash moved a **substitute** motion to look at all options. The motion was seconded by Mr. Gallen.

Following discussion, Mr. McClash agreed to **amend** his motion to direct County staff to work with Port staff and the tenants and Economic Development proposals to the extent possible, to look at all available options for a thoroughfare road through the Port Encouragement Zone and the North County Gateway Overlay. Mr. Gallen agreed and the motion carried 7 to 0.

[BC20110602DOC020](#)

### PINEY POINT

Mr. McDonald noted there was a tear in the initial cell at Piney Point where Great Lakes Dredge and Dock was depositing dredge material. The Department of Environmental Protection (DEP) has approved operation and maintenance plans for this project. DEP requested, along with HRK, that the disposal of material be moved into an adjacent cell, which is taking place while they decant the water from the cell with the tear. DEP is sampling the water going back into Tampa Bay. The project is on target for completion in mid-July. DEP reported that the flow coming from the tear is reducing from 2,700 gallons per minute (gpm) to 2,400 gpm.

Discussion: No cost to the County associated with the tear; HRK is responsible for the spoil disposal dikes as well as the operation and maintenance of those dikes; counsel reviewing the agreement clause that indicates once the Port material is in place, the Port Authority severs any responsibility for that material; updates will be provided; Wares Creek; etc. [BC20110602DOC021](#)

### COMMISSIONERS' COMMENTS

#### Manatee County Open House Weekend

Mrs. DiSabatino noted there will be a lot of Open Houses this weekend. Bradenton.patch.com reported that for every two homes sold, one job is created, and each home sale put \$60,000

into the local economy. The home median price for May is \$170,000 (\$200,000 a year ago), inventory is down, and days on the market are down. [BC20110602DOC022](#)

**12th Judicial Circuit Court**

Ms. Whitmore noted receipt of two letters from judges following the May 17 meeting at the Crosley Estate expressing appreciation for the relationship with the Board. [BC20110602DOC023](#)

**Homelessness Coalition**

Ms. Whitmore acknowledged Mrs. DiSabatino's recent participation at the homeless center. [BC20110602DOC023](#)

**Lincoln Park**

Mr. Gallen referred to a letter (5/5/11) from **Shirley Brinson** regarding the lack of opportunities at Lincoln Park. He requested a future agenda item to discuss diversifying the park. [BC20110602DOC024](#)

**LECOM**

Mrs. Hayes announced the LECOM Dental School groundbreaking is scheduled for June 4th. [BC20110602DOC023](#)

**TBARTA/MPO**

Mrs. Hayes noted that commuter vans have been purchased by FDOT, and TBARTA is utilizing the vans (85-90) for commuter services to five counties in FDOT District 6 of the seven-county TBARTA system. Several vans come into Manatee County servicing commuters north of the area. She will ask MPO members and FDOT to encourage Manatee and Sarasota Counties (FDOT District 1) participation in this program. [BC20110602DOC023](#)

**Lincoln Middle School**

Mr. McClash requested discussion with the School Board regarding lighting the basketball and tennis courts at Lincoln Middle School to provide opportunities for local play at the school site. [BC20110602DOC023](#)

**COUNTY ADMINISTRATOR**

Mr. Hunzeker noted a meeting of the eight County Administrators that make up the Tampa Bay Partnership Region, who worked with Stanford Research Institute on a Regional Economic Development Study. Stanford has requested an opportunity to present this study to the Board, and he suggested the next Council of Governments meeting. [BC20110602DOC025](#)

**MEETING ADJOURNED**

There being no further business, the meeting was adjourned.

Adj: 3:23 p.m.  
/njh

Minutes Approved: July 26, 2011