

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
COUNTY ADMINISTRATION CENTER, HONORABLE PATRICIA M. GLASS CHAMBERS
1112 Manatee Avenue West
Bradenton, Florida
April 1, 2021**

Meeting video link: <https://www.youtube.com/channel/UCUlgjuGhS-qV966RU2Z7AtA>

Present were:

Vanessa Baugh, Chairman
George Kruse, First Vice-Chairman
Kevin Van Ostenbridge, Second Vice-Chairman
Reggie Bellamy, Third Vice-Chairman
James A. Satcher III
Misty Servia (attended via Zoom)
Carol Whitmore

Also present were:

Rossina Leider, Planning Section Manager
William Clague, County Attorney
Sarah Schenk, Chief Assistant County Attorney
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

Chairman Baugh called the meeting to order at 9:00 a.m.

All witnesses and staff giving testimony were duly sworn.

INVOCATION AND PLEDGE OF ALLEGIANCE


1. The Invocation was delivered by Commissioner Satcher, followed by the Pledge of Allegiance.

AGENDA


BC20220401DOC001

ADVERTISED PUBLIC HEARINGS (Presentations Scheduled)

4. **ORDINANCE/ZONING**

 A duly advertised public hearing was opened to consider the adoption of proposed Zoning Ordinance Z-20-16, Manatee Ranches, Inc. The Planning Commission recommended adoption (3/11/21).

There being no public comment, Chairman Baugh closed public comment.


 Commissioner Whitmore moved to continue the public hearing for Z-20-16, Manatee Ranches, Inc., until April 15, 2021. The motion was seconded by Commissioner Van Ostenbridge.


William Clague, County Attorney, asked for the motion to be amended to reflect: Continue to April 15, 2021, at 9:00 a.m. or as soon thereafter as same may be heard.

The motioner and seconder agreed and the motion carried 7-0.
(Note: This item further discussed later in the meeting)

BC20220401DOC002


5. **ACTING COUNTY ADMINISTRATOR**


 Kim Stroud, Human Resources Director, reviewed the background discussion as reflected on the agenda memorandum, and sought direction from the County Commission.

 William Clague, County Attorney, stated each of the Commissioners should have received the redlined/strikethrough version of the resolution and contract yesterday.

He reviewed language changes:

- Section 2.B of Resolution R-21-064 – The salary was reduced from \$210,000 to \$187,000;
- Exhibit A, Section I, Duties and Powers – Hiring procedures were clarified;
- Exhibit A, Section III, Compensation – Performance appraisal was incorporated;
- Exhibit A, Section II, Terms of Service/Renewal/Separation/Severance – The notice to terminate has been extended to 30 days;
- Exhibit A, Section I, Outside Employment – Florida Statutes 112.3125.


 Discussion took place on Dr. Scott Hopes ability to serve as the Acting County Administrator and on the School Board, notice to terminate timeframe changing from 15 to 30 days, is the base salary \$187,000, concerned that the Acting County Administrator cannot serve on the non-profit boards, Section 2.A of Resolution R-21-066, Dr. Hopes has stated that he would resign from the School Board once Governor Ron DeSantis appoints his replacement, and Dr. Hopes would work as a diligent Acting County Administrator since there is a 30-day termination clause.


 Mr. Clague read the proposed motion: I move to adopt Resolution R-21-064, appointing Dr. Scott Hopes as Acting County Administrator, with the correction to Section 2.A of Resolution R-21-066 to specify an effective date of April 1, 2021.

The motion as read by Mr. Clague was moved by Commissioner Van Ostenbridge and seconded by Commissioner Kruse.


Discussion ensued on the health insurance, County Administrator working with staff (Resolution R-09-234), Commissioner Whitmore spoke with Dr. Hopes on March 27 regarding the proposed salary, and Commissioner Whitmore recommended emails to staff also include the Acting County Administrator.


Public Comment

 Rodney Jones remarked on how the selection process for Dr. Hopes being the Acting County Administrator was unusual, and his actions as a member of the School Board have been questionable.

 Corie Holmes supported Dr. Hopes for the Acting County Administrator position.


 Cynthia Futch supported the County Commission in their decision.

 Andra Griffin stated Dr. Hopes does not have the qualifications to do both jobs.

 Kristina Skepton remarked on the selection process for hiring Dr. Hopes and his actions during the process.

There being no further public comment, Chairman Baugh closed public comment.

 There was discussion on Dr. Hopes addressing Commissioner Servia's comments.

 Dr. Scott Hopes stated this would be a transitional period, and the Acting County Administrator position would be his first priority. He expects Governor DeSantis to make an appointment in a timely manner since there are only two School Board meetings in the next two months.

Discussion ensued regarding the language about non-profit boards be removed, and keeping the language would protect the County from legal action.

 The motion carried 6-1, with Commissioner Bellamy voting nay.

Chairman Baugh thanked Karen Stewart who has served as the Acting County Administrator for the past 30 days, and remarked on how Mrs. Stewart complimented staff on the hard work and dedication to the County.

Commissioner Van Ostenbridge thanked Mrs. Stewart for her efforts and suggested Dr. Hopes attend the status report on Piney Point Phosphate at 1:30 p.m.

Commissioners Bellamy, Servia and Whitmore also thanked Mrs. Stewart and staff for their efforts and dedication during this time.

BC20210401DOC003

RECESS/RECONVENE: 9:44 a.m. – 9:54 a.m. All Commissioners were present except Commissioner Van Ostenbridge and Commissioner Servia attended via Zoom.

AGENDA

Agenda Update Memorandum:

BC20210401DOC004

- Item 3, PDMU-98-08(G)(R10), Heritage Harbour – Presented were revisions to the staff report, motion for approval and background/discussion of item, revised General Development Plan, and public comment correspondence from Ken Bumgarner and Barbara Lane
- Item 4, Z-20-16, Manatee Ranches, Inc. – Public comment correspondence from William Heine was presented
- Add-On Item 5, Acting County Administrator – Discussion on finalists and update on the contract negotiation
- Add-On Item 6, Piney Point Phosphate Plant – Status Report on Phosphogypsum Stack Emergency Discharge

Time Certain:

- Add-On Item 5, Acting County Administrator, Discussion on finalists and update on the contract negotiation – 9:00 a.m.
- Add-On Item 6, Piney Point Phosphate Plant, Status Report on Phosphogypsum Stack Emergency Discharge – 1:30 p.m.

1. **CITIZEN COMMENTS** (Future Agenda Items)

Greer Island/Beer Can Island

Patricia Petruff, Attorney representing Micheal Saunders and family, explained the Town of Longboat Key recently dredged a channel to allow entrance into Greer Bay (Beer Can Bay), and people have been trespassing on the family's property to gain access to the new beach or to leave it. She expressed concern with the lack of regulation on the east side of Greer Island/Beer Can Island. In her email (3/31/21), she requested similar signage be placed at the end of Coquina Beach at the Pass, and for Marine Patrol to have a greater presence. She displayed photographs of the area of concern and the lack of signage.

BC20210401DOC005

(Enter Commissioner Van Ostenbridge during presentation)

Discussion continued on how the sand would be used for a groin project, County ordinance does not allow alcohol or grilling in this area (have signage), which is unregulated and the current is dangerous, warning of dangerous current, Marine Patrol, Beer Can Island has been used over the years for recreational use, do not support more government regulations, and would like staff to look at area signage.

Commissioner Van Ostenbridge moved that he be allowed to speak with Charlie Hunsicker, Parks and Natural Resources Director, regarding signage. The motion was seconded by Commissioner Whitmore.

Chairman Baugh stated improvements were made to Beer Can Island.

By telephone, Glen Gibellina remarked that procedures should be followed, and it is up to the property owners to protect their property by contacting Code Enforcement and Marine Patrol. It is not the County's job to protect private property.

Chairman Baugh pointed out the property in question is County property.

By telephone, Matt Bower stated the issues of concern are not a result of the dredging project, but the result of additional fill in the area. The area surrounding Beer Can Island is not deep and it does not have a current. Mr. Bower stated he has never witnessed people on the dock outside of fishing, and more regulations are not needed.

By telephone, Kristina Skepton agreed with Commissioner Van Ostenbridge's comments regarding regulations and signage.

Commissioner Van Ostenbridge amended his motion to include adding Marine Patrols and Commissioner Whitmore agreed. The motion carried 7-0.

Miscellaneous Comments

By telephone, Andra Griffin commented on Parrish being the fastest growing area in the County.

By telephone, Kristina Skepton remarked that Chairman Baugh has allowed personal attacks, which is prohibited in Resolution R-20-065, Exhibit A, Section 5.4.2.6. She suggested Chairman Baugh be removed as chairman.

By telephone, Jordan Brant addressed the email (3/23/21) that he sent to Commissioners regarding a program to locate, map, and harvest critically endangered plant species.

BC20210401DOC006

There being no further citizen comments, Chairman Baugh closed citizen comments.

ADVERTISED PUBLIC HEARINGS (Presentations Scheduled)

2. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider the adoption of proposed Zoning Ordinance Z-20-18, John M. Williams. The Planning Commission recommended adoption (3/11/21).

Sarah Schenk, Chief Assistant County Attorney, noted that Commissioner Whitmore has been advised that she should abstain from voting on this Item, Z-20-18, and Item 3, PDMU-98-08(G)(R10), due to a complaint (21-008) filed with the Florida Commission on Ethics regarding Commissioner Whitmore voting on projects that her son-in-law, Scott Rudacille, represents.

Scott Rudacille, Attorney for the applicant, made use of a slide presentation to review the request of a down-zoning from RES-1 to A-1 that includes aerial maps, a Future Land Use (FLU) Map, and zoning map. The applicant would like to have on-site horses.

Jake Bibler, Emergency Management Planning Manager, was available to address questions.

Corie Holmes supported Commissioner Whitmore being advised to abstain from voting on matters involving Mr. Rudacille.

There being no additional public comment, Chairman Baugh closed public comment.

Commissioner Van Ostenbridge explained he is familiar with this area in which horse farms were common.

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 LDC, Commissioner Van Ostenbridge moved to adopt Manatee County Zoning Ordinance Z-20-18, as recommended by the Planning Commission. The motion was seconded by Commissioner Bellamy.

There were no staff or applicant closing comments.

The motion carried 6-0, with Commissioner Whitmore abstaining.
(Note: Further discussion later in the meeting)

BC20210401DOC007

4. **ZONING ORDINANCE Z-20-16, MANATEE RANCHES, INC.** (Continued)

Sarah Schenk, Chief Assistant County Attorney, asked that the previous motion for this item be amended to reflect on April 15, 2021, at 1:30 a.m. or as soon thereafter same may be heard.

Commissioners Whitmore and Van Ostenbridge agreed to amend the previous motion to correct the continuance for Z-20-16 changing the time from 9:00 a.m. to 1:30 p.m.

There being no public comment, Chairman Baugh closed public comment.

The motion carried 7-0.

3. **ORDINANCE/ZONING**

A duly advertised public hearing was held to consider the adoption of proposed Zoning Ordinance PDMU-98-08(G)(R10), Heritage Harbour DRI (fka Heritage Sound).

No ex-parte communications were disclosed.

Rossina Leider, Planning Section Manager, submitted revised Zoning Ordinance PDMU-98-08(G)(R10). Revisions to the ordinance are to dates, and not the intent of the ordinance.

Commissioner Satcher viewed part of the property. There were no other ex parte communications.

Scott Rudacille, Attorney representing the applicant, made opening remarks and used a slide presentation and displayed aerials to review the request and noted this is the tenth time the GDP is being amended, and these changes are specific to Parcel 35. The request today is a

cleanup. They are not changing the developments density, and all the traffic impacts have been mitigated.



Carol Clarke, Planner for the applicant, continued the slide presentation to review Revision 10, increased height of Assisted Living Facility (ALF) from four stories to five stories, minimum and maximum consistency with the Local Development Agreement, the construction to Port Harbor Parkway has been completed and mitigated, and any unused units can move to Parcel 35, the land use equivalency matrix allows one use to be traded for another for mitigation, no objection from staff since trips are accurate, there will be a right in/right out to ALF from Upper Manatee River Road, and a right in/right outs to Port Harbor Parkway, and a left in/right out to the multi-family at Port Harbor Parkway and Monet Trail, They are removing a connect to the parcel and Stoney Brook Terrace. The last thing requested is a specific approval regarding the second means of access to emergency vehicles only (Monet Trail), and there have been no objections from Public Safety.

Stephanie Moreland, Principal Planner, concurred with the applicant's presentation and was available to address questions.

Ken Bumgardener, Waterlefe resident, asked to keep the ALF height requirement of three stories in place, but if there needs to be an increase, four would be preferable.

Sarah Wiley discussed change and asked if there is any protection for homeowners.

Mary Lou Kovac displayed a map and discussed a presentation by builders 10 year ago, and addressed the increased number of homes, consistency, and opposed the additional height for the ALF.



Art Miller, Waterlefe resident, agreed with the other speakers and addressed traffic on Upper Manatee River Road.

Eugene Zeiner addressed future development, and requested due consideration while expressing concerns with the destruction of wildlife and habitat, and maintenance of the east ditch.


Tom Bakalar discussed sight lines between Heritage Harbour and Stoneybrook and the east ditch.

Donna Lasater expressed concern with traffic noise, line of sight and light coming into their homes, and opposed the height of the proposed buildings.


There being no additional public comment, Chairman Baugh closed public comment.

Ms. Moreland displayed an aerial in the agenda package and pointed out the location of multistory apartments, and the proposed location of the site. The ALF is already approved for four-stories and is classified as a multi-family location. She reiterated that there are no additional entitlements proposed.

Discussion ensued regarding the development order was changed to allow multi-family uses to five-stories.

 Sarah Schenk, Assistant County Attorney, clarified the five stories for multi-family was changed in another project.

Ms. Clark responded that when the additional floor would open up more land, since the number of units is not changing. They are not saying the ALF is a multi-family structure. There are no specific rules regarding site lines, and these requests are project specific. She reviewed the slides again and pointed out the distances between the site and the properties to the north. The building would be approximately 500 feet to the nearest property line in Waterlefe.


 Mr. Rudacille noted the prior application did not include the ALF, since there were no plans for an ALF and he displayed pages from agreement to discuss uses adjacent to Waterlefe and modifications to Parcel 35. There is approximately 300 feet from the boundary (not the nearest residence) of Waterlefe and Parcel 35. They are in compliance with the Waterlefe agreement.

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 LDC, as conditioned herein, Commissioner Van Ostenbridge moved to adopt Manatee County Zoning Ordinance PDMU-98-08(G)(R10) and approval of the revised General Development Plan with stipulations; Adopt the Findings for Specific Approval; and Approve Specific Approval for an alternative to LDC Section 1001.1.C (second means of access for emergency vehicle use only for proposed multi-family project adjacent to Port Harbor Parkway and Monet Trail). The motion was seconded by Commissioner Bellamy and carried 5-1, with Commissioner Satcher voting nay and Commissioner Whitmore abstaining. BC20210401DOC008

RECESS/RECONVENE: 11:35 a.m. – 1:32 p.m. All Commissioners were present with Commissioner Servia attended via Zoom.

REGULAR

6. **PARKS AND NATURAL RESOURCES/PINEY POINT PHOSPHATE PLANT/STATUS REPORT/PHOSPHOGYPSUM STACK EMERGENCY DISCHARGE**


 Charlie Hunsicker, Parks and Natural Resources Director, stated Secretary Noah Valenstein, Florida Department of Environmental Protection (FDEP), called a meeting with environmental organizations and Rob Brown is in attendance. HRK is still being held responsible for Piney Point.

Chairman Baugh asked if would be better to hold the update until after the FDEP meeting.

Mr. Hunsicker stated a Piney Point worker is present who knows what is going on, because he has been on site for 24 hours straight.


Commissioner Whitmore inquired about whether FDEP has been on the site and why HRK is not at the FDEP meeting.

Mr. Hunsicker remarked on surface flows from the water collected while displaying an aerial map of Piney Point Creek.

 Commissioner Van Ostenbridge asked about where Piney Point Creek would drain.

Commissioner Bellamy asked about the risk and the next steps. He expressed concern about the water being discharged into Tampa Bay.

Mr. Hunsicker spoke to Commissioner Bellamy's concerns.


 Jeff Barath, HRK Holdings LLC (Owner and Operator), gave an account of what has taken place during the past week pertaining to the leak at Piney Point Phosphate Plant. He noted there would be impacts to Tampa Bay despite the leakage containing nutrients.


Chairman Baugh confirmed Mosaic Fertilizer informed her directly that they have been in contact with Mr. Barath and FDEP.

Discussion took place on the Port Channel (near Berth 12), Port Channel is 45 feet deep, stormwater pond and seepage system, and FDEP will present a plan to HRK.

Mr. Barath stated the syphon line has sprung a leak or split, but has been cut off.

Discussion ensued regarding requesting FDEP be present at the April 6 meeting to provide a report since the County has no jurisdiction, Mr. Barath and crew should be on site to address issues, thanked Mr. Barath and staff for keeping Chairman Baugh informed and asked what is being taken through wastewater system, request agricultural groups be part of the process and for there to be a timeline provided on April 6, and should a Local State of Emergency be declared.

 Mike Kelley, Engineer of Record (third-party representing HRK Holdings LLC), gave a report on his role and how the conditions are changing rapidly. Uncontrolled releases are possible to take pressure off of the stacks.

 Chairman Baugh stated she received a phone call on Monday that this situation was not a controversy and asked if FDEP is aware of the current situation.

Discussion proceeded on the bulge, structural integrity of the stack, options, evacuation plans, warning signs of failure, destabilization of the stacks caused decreases, whether the ditches are being cleaned, chemical characteristics and composition (FDEP is monitoring for low levels or radioactivity), the leak was small and the contractor has been mobilized, and would like daily briefings from the Acting County Administrator.

Motion


Commissioner Satcher moved to recess the meeting with the request for daily briefings. Commissioner Van Ostenbridge seconded the motion.

Commissioner Baugh revised the motion to not recess the meeting, but to release HRK staff to go back to work, because there are other matters to discuss.

There being no public comment, Chairman Baugh closed public comment.

 Commissioner Van Ostenbridge mentioned wanting daily press releases.


 The motion carried 7-0.


 Commissioner Van Ostenbridge noted the press releases would keep the public informed in conjunction with daily briefings.

Commissioner Servia inquired about what is expected after gallons are released.

Mr. Hunsicker spoke and noted a large amount of nitrogen would be present with the flow, which would not cause red tide since the organism is already present. There is the possibility for an algae bloom.

Commissioner Van Ostenbridge asked that Charlie Hunsicker and staff take aerial photographs of Piney Point, north County and Anna Maria Island.


 Jeff Goodwin, Utilities, reported on discharge rates and noted past requirements for an industrial discharge and everything is in place, but the saltwater has made it into the gypsum pond. The seawater is more detrimental, and they must look closely at conductivity levels. The County has offered their assistance. Manatee County was ready to receive discharge in mid-February.

 Discussion ensued to maintain the integrity of the storm water system, cannot compromise the wastewater system, the difference in the amount Manatee has to receive now, have County Administrator check with Governor DeSantis about declaring a Local State of Emergency.

Dr. Scott Hopes, Acting County Administrator, stated he will meet with FDEP and he spoke with a USF professor regarding the content of the discharge. It is important to be prepared.

Commissioner Van Ostenbridge asked for a work session with the University South of Florida, Island communities, and Farm Bureau to discuss water matters.

Commissioner Bellamy asked about water evaporation.

 Mr. Hunsicker displayed Buckeye Road aerial map to discuss treatment and which two ponds are in question.


Commissioner Whitmore suggested HRK not be invited to the work session, so they can concentrate on the leak.

BC20210401DOC009

2. **ZONING ORDINANCE Z-20-18, JOHN M. WILLIAMS** (Continued)

Chairman Baugh confirmed with Commissioners that there were no ex-parte communications for this item.

LETTER OF THANKS – PAUL ALEXANDER

 Commissioner Whitmore pointed out Paul Alexander, former Information Technology (IT) Director, departed on March 17, 2021, and he was not acknowledged for his service. She suggested that his replacement attend a future meeting for an introduction.

Chairman Baugh reported Sia Mollanazar retired as well.

Commissioner Whitmore moved to send a Letter of Thanks to Paul Alexander for his years of services. The motion was seconded by Commissioner Van Ostenbridge.

The Clerk inquired if the motion also included a Letter of Thanks to Sia Mollanazar.

The motioner and seconder confirmed the Letter of Thanks would be only for Paul Alexander.

Corie Holmes inquired about the Acting IT director not being vetted by the County Commission.

There being no further public comment, Chairman Baugh closed public comment.

The motion carried 7-0.

(Note: Letter of Thanks to Paul Alexander was not received for the record)

COMMISSIONERS' COMMENTS

Commissioner Kruse

- Asked that Jordan Brant's suggestion be considered by staff
(Noted: Commissioners' Comments continued to later in the meeting)

LETTER OF THANKS – SIA MOLLANAZAR

Commissioner Kruse moved for a Letter of Thanks be sent to Sia Mollanazar, former Deputy Director of Public Works, thanking him for his years of service. The motion was seconded by Commissioner Baugh.

There being no public comment, Chairman Baugh closed public comment.

The motion carried 7-0.

(Note: Letter of Thanks to Sia Mollanazar was not received for the record)


COMMISSIONERS' COMMENTS (Continued)


Chairman Baugh


-  Suggested a prohibition on cell phones on the dais

Commissioner Whitmore stated her cell phone is means of communication with her husband and caregivers. Commissioner Kruse did not support a prohibition.

Commissioner Servia


- Reported a meeting was held with Fair Lane Acres residents who have continued concerns with traffic and speeding cars.
-  Suggested that Dr. Hopes connect with the Manatee County Chamber of Commerce and Economic Development Council.

 William Clague, County Attorney, stated it is not clear that Dr. Hopes has to serve in order to participate, and asked that Dr. Hopes be given the opportunity to clarify. He pointed out Chairman Baugh has a sit on the Chamber of Commerce.

 Karen Stewart, Deputy County Administrator, asked the County Commission to not adjourn the meeting, but take a recess due to staff working on the resolution to declare a Local State of Emergency.

RECESS/RECONVENE: 3:24 p.m. – 3:58 p.m. All Commissioners were present with Commissioner Servia attending via Zoom.

**RESOLUTION/LOCAL STATE OF EMERGENCY/PINEY POINT PHOSPHATE PLANT
PHOSPHOGYPSUM STACK EMERGENCY DISCHARGE**

 Scott Hopes, Acting County Administrator, recommended adopted of Resolution R-21-067, declaring a Local State of Emergency for the Piney Point Phosphate Plant Phosphogypsum Stack Emergency Discharge and its potential threat to Manatee County.

A motion was made by Commissioner Van Ostenbridge and seconded by Commissioner Whitmore to adopt Resolution R-21-067.

Commissioner Servia confirmed that she received a digital copy of the resolution.

There being no public comment, Chairman Baugh closed public comment.

The motion carried 7-0.

BC20210401DOC010

ADJOURN

There being no further business, Chairman Baugh adjourned the meeting at 4:00 p.m.

Minutes Approved: December 6, 2022