

OCTOBER 3, 2011

A Workshop Meeting of the Board of Lee County Commissioners sitting as the Board Management and Planning Committee was held on this date with the following Commissioners present:

Frank B. Mann, Chairman
John Manning, Vice Chairman
A. Brian Bigelow
Ray Judah
Tammara Hall

The Chairman called the meeting to order at 1:30 p.m.

1. **ORDINANCE REGARDING JUNK DEALERS/SECOND HAND DEALERS**

Create Ordinance regulating second hand metal dealers

Lee County Sheriff's Office, Criminal Intelligence Section Sgt. Matt Chitwood provided an overview of metal thefts throughout Lee County, and advised that the current laws are not adequate to address the growing problem. Following brief discussion on the lack of legislative action, and recommendations outlined by Sgt. Chitwood, there was Board consensus to direct the drafting of an Ordinance to restrict the sale of regulated metals and the scheduling of a public hearing in early November. Additional discussion ensued on the timely provision of back-up materials to agenda items.

2. **ECONOMIC DEVELOPMENT UPDATE**

The Economic Development Office will provide an update on initiatives by their department to promote economic diversification and their efforts for promoting the retention, expansion and recruitment of high-wage, high skill industry to Lee County. In addition, the activities of the Horizon Council and Industrial Development Authority will also be presented.

Economic Development Director Jim Moore narrated an informational PowerPoint update and responded to Board questions and commentary throughout the presentation on Enterprise Zones for economically disadvantaged areas, especially as it may relate to Lehigh Acres; website transparency; applicant viability; job creation numbers and associated costs; marketing approach; closing of Collier County's program; administering of private sector donations by the Industrial Development Authority Board; and the Lee is Lending incentive program for start-ups. Mr. Moore concluded his remarks by commending the successful business model put in place by the Board 20 years ago. He further agreed to call a meeting of the banking group affiliated with the Lee is Lending Program and, at the request of Commissioner Judah, have additional discussions to report on options.

3. **UPDATE ON STATUS OF JET BLUE PARK**

Update on the status of construction at the Red Sox Spring Training Facility.

Assistant County Manager for Public Works Doug Meurer provided a status report on the construction of Jet Blue Park stating they were on budget and on schedule with an estimated completion date of mid-January 2012. Mr. Meurer, narrated aerial photos of the stadium and the site, and response was provided to a question from Commissioner Bigelow on the adjacent soccer fields by Assistant Director of Parks and Recreation Dave Harner. Ms. Hawes advised that shuttle service to both stadium venues from local businesses would be provided. It was pointed out by Chairman Mann that this project employs over 500 people and is funded by Tourist Development Fund monies, and not ad valorem tax dollars. Mr. Meurer responded to questions by Commissioner Bigelow on adjacent businesses, maintenance funding, and naming rights. Commissioner Hall called a point of order that contract terms were not the issue under consideration and Chairman Mann responded that answers to those type of questions were available. Commissioner Bigelow asked a point of order question under Roberts Rules of Order, and County Attorney Michael Hunt provided legal opinion. Commissioner Bigelow stated that his rights were being interfered with by the Chairman and a majority of the Board. Chairman Mann indicated that while he believed the question on the naming rights was not germane to a construction update scheduled for this time and therefore out of order, he would make an exception and requested Commissioner Bigelow to continue his line of questioning. Commissioner Bigelow declined. Chairman Mann advised that the correct opportunity to introduce a line of questioning on Jet Blue Park was under Commissioner Items at tomorrow's Regular Meeting of the Board.

4. **STATUS REPORT ON THE COMPREHENSIVE PLAN UPDATE AND IMPLEMENTATION**

On March 1, 2011 the Board of County Commissioners adopted the 2011 Evaluation and Appraisal Report and in doing so established its vision “New Horizon 2035”. Since March, an interdepartmental staff team has been working to achieve this vision through a major update of the Lee Plan. This update of the Lee Plan goals, objectives, and policies is proposed to be completed by December 2012.

Community Development Principal Planner Kathie Ebaugh provided an [update](#) on the progress of the Lee Plan, which is the second phase of the New Horizon 2035 project begun last year, responded to Board questions, and agreed with Commissioner Bigelow’s request that detailed white papers would be provided prior to future updates. She concluded her report with an outline of the summary schedule, with final adoption anticipated by December 2012.

5. APPRAISAL AND NEGOTIATION PROCESS

The Board has recently had questions regarding the appraisal and negotiation process followed by staff. Staff would like the opportunity to discuss the matter with the Board.

County Lands Director Karen Maguire narrated a [PowerPoint presentation](#) describing the acquisition process and referenced [handouts](#) listing appraisal companies currently used by the County, along with examples of condemnation costs; and responded to the suggestion by Commissioner Manning of an option for a real estate review committee to volunteer their expertise and take a second look at multi-million dollar appraisals. Ms. Maguire continued her presentation and responded to a question from Commissioner Bigelow on whether there was Conservation Land Acquisition and Stewardship Advisory Committee (CLASAC) input on valuations or negotiations for parcels presented to the Board for purchase. Commissioner Bigelow suggested that CLASAC members have more involvement in the process and identified a specific property negotiation as a matter of concern to him. The presentation continued with response to Commissioner Bigelow’s questions and further discussion on hypothetical situations and appraisal approaches. Commissioner Hall suggested the Board review their policies and recommend any changes. Chairman Mann referenced the recent criticism leveled at the current process, CLASAC’s role in the recommending process, and whether an Ordinance change would be required to appoint an ad hoc committee for the purpose of determining a value review. Commissioner Hall suggested reviewing the entire Ordinance and discussion ensued on the role of CLASAC. Commissioner Judah stated that the Conservation 20/20 program has been a successful and professionally run program, and referenced the motivation behind recent criticism of 20/20 land purchases strictly as a desire to re-direct funds within the budget. (Commissioner Bigelow left the Chambers at 4:30 p.m. and was absent for the remainder of the meeting). Chairman Hall suggested that the current policies and procedures on appraisals and land acquisitions be re-confirmed or modified. Chairman Mann indicated that things could be done better and the need for public support requires further discussion at a future time. County Manager Karen Hawes stated her understanding was of a consensus bring the Ordinance back for consideration and a review of the existing policies and procedures as a separate meeting item sometime in December.

6. STATUS OF BAYSHORE UTILITY COMPANY WATER TREATMENT PLANT

The following provides a status of the Bayshore Utility Company (Bayshore) enforcement action by the Lee County Health Department (LCHD). Bayshore is a private utility that operates a water treatment plant that provides potable water to approximately 200 customers within the Yacht Club Colony, located in North Fort Myers. This private utility is under the authority of the Florida Public Services Commission.

Lee County Utility (LCU) and County Attorney Office (CAO) staff have participated in meetings with FDEP and LCHD to discuss available options if Bayshore is required to cease operations for public health and safety issues. LCU has also met with Bayshore staff to offer suggestions for improvements.

LCHD issued a consent order to Bayshore requiring the utility to complete plant improvement within a 12-month period. Bayshore hired an engineering firm and created a plan for plant improvements, however to date no improvements have been initiated. The deadline for meeting the consent order passed in September 2011. LCHD will be filing a Petition for Enforcement of Agency Action and Complaint for Injunctive Relief in circuit court.

LCU is not in a position to influence this regulatory process. We have presented two options to extend our transmission line to the Bayshore service area. The first option includes installing a master meter and billing Bayshore a bulk customer rate. The estimated cost per customer for this option is approximately \$4,000.00 and would most likely be passed on to the customers by Bayshore.

A second option includes extending our transmission line to the service area and LCU take over the operation of the distribution system. The customers would be billed directly by LCU and provided the County customer services. Certain upgrades to enhance the fire protection would be necessary to bring the system into compliance with County standards. The County Comprehensive Plan would also need to be modified to include the new water service area. The estimated cost per customer for this option is approximately \$7,000.00. The customer would be responsible for these costs; however, a MSTU could be established to assist with financing the costs.

Utilities Director Pam Keyes advised that Lee County Health Department (LCHD) Director Dr. Judith Hartner and Environmental Engineering Director Charles Walther were present today as well. Ms. Keyes provided a status [update](#) on an enforcement action by the LCHD against the private Bayshore Utility Company Water Treatment Plant. Commissioner Hall advised that there is a District 4 blog where citizens may follow the progress on this matter.

7. WATERWAYS ESTATES WASTEWATER TREATMENT PLANT DECOMMISSION STATUS

The following provides a status of the Waterway Estates Wastewater Treatment Plant (WWEWWTP) decommission process and information for discussion regarding providing public access to the existing site.

The decommissioning of the WWEWWTP requires a two phase approach. The first phase includes the installation of a wastewater transmission line from the master lift station that collects the wastewater for the service area and runs northeast to connect with an FGUA transmission line that runs to the Del Prado Wastewater Treatment Plant. LCU has contracted with FGUA to manage the project. Pre-construction activities are underway and field construction is anticipated to begin within weeks. LCU has established a web site a www.LCUimprovements.info to provide the public with the project description, pipe route, and contact information. The construction period is anticipated to continue through July 2012.

The second phase of the WWTP decommissioning includes actual plant closure and property rehabilitation and redevelopment. A Decommission Plan will be completed, including asset recovery, environmental protection, and contractor selection for demolition of the WWTP. A FDEP permit will be required. Site rehabilitation for long term beneficial use will require public participation and BoCC direction. Plant decommissioning is anticipated to require 12 to 18 months after the flow is diverted to the Del Prado Wastewater Treatment Plant.

Prior to rehabilitating and redevelopment of the property, the WWE neighborhood has requested public access to the existing site, including the docks. Several issues have been raised by Lee County Utilities (LCU), Risk Management, County Attorney's Office, Parks, Planning and County Lands Departments.

The property is currently zoned for Commercially Planned Development, which does not allow public access for recreational use. The property would need to be rezoned to include Park activities. This process would require approximately 6 months for a cost of approximately \$5,000.00. County Lands cautions against rezoning the property to Parks since it could significantly decrease the property value for redevelopment.

Risk Management, Parks and the CAO recommend several site improvements to decrease the legal liability of public access. Staff expressed concern with the change in ownership from the neighborhood developer to LCU, as that would increase the legal liability should someone be injured or sustain property damage. These improvements include providing ADA access, refuge and sanitary facilities, repairs to all docks, infill and re-grading, perimeter fencing and sea wall repairs. The estimated cost for these improvements is approximately \$120,000.00. Neither Parks nor LCU funding available for repairs or on-going operations and maintenance of the site.

The Parks Department policies no longer support creating or operating neighborhood parks. Currently if a neighborhood requests Park assistance to create a park, an assessment is established to cover the costs. Further, Parks staff report funding is not currently available, or in the foreseeable future, for purchasing, improving, operating or maintaining the site as a regional park.

Park development and operations is outside of the LCU core services and enterprise funds are not available for this use. Further, the use of water and wastewater user fees for park activities is outside of the bond conveyance requirements.

OPTIONS:

1. IDENTIFY FUNDING SOURCE(S) TO COVER ESTIMATED COST OF \$120,000.00 FOR SITE IMPROVEMENTS TO REDUCE LEGAL LIABILITY OF PUBLIC ACCESS.
2. CONTINUE SITE SECURITY UNTIL THE LONG-TERM REHABILITATION PLAN AND PROPERTY USE HAS BEEN DETERMINED.

RECOMMENDATION:

Site remains secured from public access to reduce legal liability.

Utilities Director Pam Keyes provided a [PowerPoint update](#) on the decommission process and advised of a website address with phone numbers to address questions by affected residents. She indicated construction is anticipated to be completed by August 2012, addressed the next steps and associated costs, and she and Assistant County Manager for Public Works Doug Meurer responded to Board questions on long-term property use.

The Chairman adjourned the meeting at 4:41 p.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)