

9. APPROVAL OF MINUTES:

Regular Meeting held June 4, 2013.

**BOARD OF COUNTY COMMISSIONERS MEETING  
TUESDAY, JUNE 4, 2013 – 9:32 A.M.  
ASSEMBLY ROOM, FIFTH FLOOR  
315 COURT STREET, CLEARWATER, FLORIDA**

**Members Present:** Kenneth T. Welch, Chairman; Karen Williams Seel, Vice-Chairman; Norm Roche; Susan Latvala; Charlie Justice; Janet C. Long, and John Morroni.

**Others Present:** James L. Bennett, County Attorney; Robert S. LaSala, County Administrator; Claretha N. Harris, Chief Deputy Clerk; and Trudy Futch, Board Reporter.

**INVOCATION:** Reverend Bob Scott, Peace Memorial Presbyterian Church, Clearwater.

**PLEDGE OF ALLEGIANCE:** Commissioner Seel.

**PRESENTATIONS AND AWARDS:** None.

**All public hearing items have been properly advertised. Affidavits of Publication have been received and are on file in the Board Records Department.**

**SCHEDULED PUBLIC HEARING – COUNTYWIDE PLANNING AUTHORITY (CPA)**

- # 1 Sitting as the Countywide Planning Authority, the Board adopted Ordinance No. 13-12 approving Case No. CW 13-3, the proposal by the City of Safety Harbor to amend the Countywide Future Land Use Plan from Residential/Office Limited to Residential Suburban, re 2.0 acres m.o.l., located at the northeast corner of McMullen Booth Road and Cedar Street (subthreshold amendment). Pinellas Planning Council recommended approval of the proposal and staff concurred. No correspondence has been received. No citizens appeared to be heard.

Motion	-	Commissioner Morroni
Second	-	Commissioner Seel
Vote	-	7 – 0

**SCHEDULED PUBLIC HEARINGS – BOARD OF COUNTY COMMISSIONERS (BCC)**

- # 2 Resolution No. 13-50 adopted granting the petition of Karl and Kathleen Behnken to vacate a portion of a ten-foot utility easement in Lot 15, Highland Lakes Unit Sixteen, Phase 1 Subdivision (Quasi-Judicial Hearing). Authority granted for the Clerk to record

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the resolution. Letters of no objection received from all appropriate parties. Interested property owners were notified as to the date of the public hearing. Staff recommended the vacation be granted. No correspondence has been received.

Motion	-	Commissioner Seel
Second	-	Commissioner Roche
Vote	-	7 – 0

Karl Behnken, Palm Harbor, appeared and being duly sworn, indicated that he is the applicant; and that he has two letters from his local homeowners associations in support of the application; whereupon, Chairman Welch requested that the letters be submitted to the Clerk to be filed and made a part of the record.

- # 3 Proposed resolution granting the petition of Betty Rodriguez to vacate a portion of a five-foot utility easement in Lot 27, Block 42, Newport Unit No. 1 Subdivision (Quasi-Judicial Hearing), temporarily deferred. Letters of no objection received from all appropriate parties. Interested property owners were notified as to the date of the public hearing. Staff recommended the vacation be granted. Three emails in opposition to the application have been received.

No one appeared in response to the Chairman's call for the applicant or citizens wishing to be heard.

Commissioner Roche expressed his concerns regarding the pending code violations and the emails in opposition to the application, stating that the request is for a portion of a five-foot easement and that the entire easement is only five feet; and suggested that this matter is similar to the Reliable Septic case, in that if the Board approves this vacation, it would negate the code violations that have already occurred, which could cause further complications.

Real Estate Management Director Paul S. Sacco, with input by Commissioner Latvala and Attorney Bennett, stated that the applicant's shed currently sits on a concrete slab which encroaches upon an existing easement; that precedence indicates that an entire easement does not have to be vacated; that outstanding code violations are irrelevant to the applicant's request; and that the vacation would reduce the level of the variance that the applicant would need from the Board of Adjustment to come into compliance with the Code; whereupon, Commissioner Roche moved for denial, seconded by Commissioner Seel.

Motion	-	Commissioner Roche
Second	-	Commissioner Seel

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In response to queries by the members, Attorney Bennett indicated that denial without prejudice would not affect the fees, noting that the Board could waive the fees; and suggested that the case be continued in order for the applicant to answer questions posed by the Board; whereupon, Commissioner Roche changed his motion, moving that the item be temporarily deferred, and the seconder concurred.

Thereupon, Commissioner Seel, with input by Attorney Bennett, requested that staff provide the Board with all the particulars of the case, including the setback information, the type of variance, and the possible ramifications should the Board approve the vacation.

Upon call for the vote, the motion to defer carried unanimously.

Motion	-	Commissioner Roche
Second	-	Commissioner Seel
Vote	-	7 – 0

- # 4 Resolution No. 13-51 adopted granting the petition of Stephen Barron to vacate a portion of a St. Louis Avenue right-of-way in the W.V. Futrell's Subdivision, reserving a drainage and utility easement over the vacated area (Legislative Hearing). Authority granted for the Clerk to record the resolution. Letters of no objection received from all appropriate parties. Interested property owners were notified as to the date of the public hearing. Staff recommended the vacation be granted. No correspondence has been received.

Motion	-	Commissioner Latvala
Second	-	Commissioner Roche

In response to the Chairman's call for the applicant, Stephen Barron, Palm Harbor, appeared, stated his reasons for requesting the vacation, and responded to queries by Commissioner Roche, indicating that the County refuses to allow him to place gravel on the property to prevent erosion created by stormwater flooding into Sherwood Forest Park; and that he desires the ability to maintain the site to prevent erosion and damage to his property; whereupon, upon call for the vote, the motion carried unanimously.

Vote	-	7 – 0
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## **CITIZENS TO BE HEARD**

Lenore Faulkner, Madeira Beach, re Pinellas County schools.

Greg Pound, Largo, re justice.

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**CONSENT AGENDA ITEMS NOS. 5 THROUGH 14 – APPROVED, WITH THE EXCEPTION OF ITEMS NOS. 6b, 11, AND 13, WHICH WERE DISCUSSED AND APPROVED UNDER ITEM NO. 14.**

Motion - Commissioner Morroni  
Second - Commissioner Latvala  
Vote - 7 – 0

# 5 Minutes of regular meeting of May 7, 2013 approved.

# 6 Reports to be Received for Filing:

- a. Pinellas County Comprehensive Annual Financial Report for the Fiscal Year ended September 30, 2012.
- b. *See Item No. 14.*
- c. Quarterly Investment Report for the Period ended December 31, 2012.
- d. Annual Investment Report for the Fiscal Year ended September 30, 2012.
- e. Continuing Bond Disclosure Report dated April 30, 2012 pursuant to Rule 15c2-12 of the Securities and Exchange Commission for:
  - \$86,580,000 Sewer Revenue Bonds, Series 2003
  - \$25,205,000 Sewer Revenue Refunding Bonds, Series 2006
  - \$59,510,000 Sewer Revenue Refunding Bonds, Series 2012

# 7 Vouchers and Bills Paid

Period April 28 through May 4, 2013

Payroll – None.

Accounts Payable

Checks – \$3,887,757.41

ACH Transfers – \$34,257,813.46

Wire Transfers – \$625,134.12

Period May 5 through May 11, 2013

Payroll

ACH – \$2,877,627.67

Checks – \$39,889.27

Third Party ACH – \$15,720.26

Third Party Checks – \$1,616.31

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Accounts Payable

Checks – \$4,460,531.37

ACH Transfers – \$1,767,569.15

Wire Transfers – \$521,553.08

# 8 Miscellaneous Items to be Received for Filing:

- a. City of Clearwater Notices of Public Hearings to be held July 18, 2013, regarding proposed Ordinances Nos. 8398-13, 8400-13, and 8401-13 amending the Community Development Code, Land Use Plan, and Zoning Atlas.
- b. City of Safety Harbor Ordinances Nos. 2013-08 and 2013-12 adopted May 6, 2013, voluntarily annexing certain property.
- c. City of Seminole Ordinance No. 03-2013 adopted April 24, 2013, annexing certain property.
- d. City of Tarpon Springs Ordinance No. 2013-08 adopted May 7, 2013, annexing certain property.

# 9 Proposal submitted by Toski & Company, rejected for being non-responsive on the basis of failing to meet the requirement for a firm to be licensed in the State of Florida.

Ranking of firms for auditing services approved as follows (Contract No. 123-0229-P):

1. Crowe Horwath LLP
2. Clifton Larson Allen LLP
3. Moore Stephens Lovelace
4. Mayer Hoffman McCann P.C.
5. KPMG LLP
6. Cherry Bekaert LLP
7. Toski & Company

Staff authorized to negotiate an agreement for Board approval with the number one ranked firm, Crowe Horwath LLP (Clerk of the Circuit Court/Purchasing).

#10 Authorization granted for the Chairman to execute an application for federal funding assistance to the Federal Aviation Administration (FAA) in the amount of \$1,907,417.00 for Taxiway Rehabilitation Phases One and Two Design and acquisition of an Airport Rescue and Fire Fighting (ARFF) fire truck for the St. Petersburg-Clearwater International Airport; Chairman authorized to execute and the Clerk to attest after receipt of the grant agreement from the FAA and after written approval as to form by the Office of the County Attorney (Department of Environment and Infrastructure).

- #11 See Item No. 14.
- #12 Revised quarterly report of claim settlements for January 1, 2013 through March 31, 2013 for claims requiring the mutual consent of the County Attorney and Risk Management in the settlement area of \$25,001.00 to \$50,000.00 (total claims paid, \$50,000.00) received for filing (Risk Management/County Attorney).
- #13 See Item No. 14.
- #14 Items for discussion from Consent Agenda (County Administrator and Clerk of Circuit Court and Comptroller)

# 6 Reports to be Received for Filing:

- b. Division of Inspector General, Audit Services, Clerk of the Circuit Court and Comptroller, Report No. 2013-18 dated May 20, 2013 – Audit of DEI GMD Contract with Ferguson Waterworks.

Noting that the item is an in-house audit by the Clerk of the Circuit Court and Comptroller of a Department of Environment and Infrastructure contract with Ferguson Waterworks, Commissioner Roche requested that a detailed follow-up report be provided, within a 30- to 60-day time frame, on the remedies recommended by the Auditor, including the cost issues and the potential for cost recovery; whereupon, he moved that the audit be received for filing, seconded by Commissioner Seel, who pointed out that there appears to be a credit memo for over \$15,000.00.

Motion	-	Commissioner Roche
Second	-	Commissioner Latvala
Vote	-	7 – 0

- #11 Declaration of one County-owned escheat property as surplus and authorization to convey property to the City of St. Petersburg in accordance with Florida Statutes 197.592(3) approved; Chairman authorized to execute and the Clerk to attest the County deed (Real Estate Management).

In response to queries by Chairman Welch and Commissioner Roche, Attorney Bennett, with input by Administrator LaSala, indicated that the property was acquired via delinquent taxes; that he is unaware of the fiscal impact; that the law does not allow transfer for value to a city; that the tax loss is not only to the

County, but also to the City and the School Board; and that staff coordinates throughout the County to review potential uses of the property prior to transfer to a city; whereupon, Commissioner Roche suggested that such properties be considered for the Affordable Housing Program.

Motion	-	Commissioner Latvala
Second	-	Commissioner Roche
Vote	-	7 – 0

- #13 Sitting as the Countywide Planning Authority, the Board officially accepted 15 Countywide Plan Map boundary adjustments submitted by the City of St. Petersburg and Pinellas County, as recommended by the Pinellas Planning Council in its memorandum dated June 4, 2013, a copy of which has been filed and made a part of the record.

In response to queries by Commissioner Roche, Michael Schoderbock, Pinellas Planning Council, with input by Commissioner Morroni, related that although it is not a Public Hearing item, all property owners impacted by changes to the Land Use Map are notified; and that there were two separate sets of minutes, Planners Advisory Committee and the Pinellas Planning Council, included in the back-up.

Motion	-	Commissioner Roche
Second	-	Commissioner Morroni
Vote	-	7 – 0

- #15 Final negotiated agreement with American Infrastructure Development, Inc. for Terminal Building and Airfield Improvements – St. Petersburg-Clearwater International Airport (Contract No. 112-0413-CN) approved in an amount not to exceed \$1,154,571.00. Chairman authorized to sign the agreement and the Clerk to attest (Department of Environment and Infrastructure/Purchasing).

Motion	-	Commissioner Seel
Second	-	Commissioner Latvala

During discussion and in response to queries by Commissioner Morroni, Airport Director Noah Lagos stated that the improvements will only impact the airfield and will have no effect on the surrounding area; that new Federal Aviation Administration (FAA) regulations require the removal of the 45-degree-angle connectors to allow for a safer and less steep turn for aircraft on and off the runways; that the County is in negotiations with the FAA concerning the width of the taxiways and the requirement of a shoulder to keep the aircraft engines off the grass and on the asphalt; and that new LED lights will be

installed on the airfield that will reduce maintenance and cost of replacement, but there will be no additional lights.

Vote - 7 – 0

- #16 First Amendment to the agreement with URS Corporation Southern for Terminal Building Schematic Analysis Design Development and Project Implementation for the St. Petersburg-Clearwater International Airport (Contract No. 101-0129-NC) approved, increasing the agreement amount by \$75,886.40 (revised agreement total, \$849,026.40); Chairman authorized to sign agreement and the Clerk to attest (Department of Environment and Infrastructure/Purchasing).

Motion - Commissioner Long

Second - Commissioner Seel

Vote - 7 – 0

- #17 Resolution No. 13-52 adopted granting preliminary approval for Barrington Oakes West Subdivision street lighting district to replace existing decorative lighting fixtures, requesting the County Administrator to call for a public hearing to consider a proposed resolution, and authorizing funds for administrative expenses directly incidental thereto; authorization granted for the Clerk of the Circuit Court to advertise a public hearing to be held on July 9, 2013 (Department of Environment and Infrastructure).

Motion - Commissioner Long

Second - Commissioner Roche

Vote - 7 – 0

- #18 Resolution No. 13-53 adopted dedicating a portion of County-owned property as public road right-of-way for the Gooden Crossing Sidewalk and Drainage Improvements Project (County PID No. 000145A/1219); Clerk authorized to record the resolution (Department of Environment and Infrastructure).

Motion - Commissioner Long

Second - Commissioner Morroni

In response to query by Commissioner Roche regarding conflicting dates on the aerial exhibits, Jorge Quintas, Director of Engineering and Technical Support, Department of Environment and Infrastructure, clarified that the April 2014 date that appeared on the aerial photograph is a typographical error; and that the photograph is an overall view of the right-of-way property and not a survey document.

Vote - 7 – 0

- #19 Change Order No. 1 to the contract with Ajax Paving Industries of Florida, LLC, for traffic flow improvement – Solid Waste Bridgeway Acres Landfill (PID No. 1928, Contract No. 101-0290-CP) approved, increasing the contract amount by \$322,929.95 for a revised total contract amount of \$2,912,075.35 and authorizing a time extension of 90 consecutive calendar days; contract accepted as complete on August 16, 2013. Chairman authorized to sign the Change Order and the Clerk to attest after proper execution of Change Order No. 1 by the contractor (Department of Environment and Infrastructure/Purchasing).

Motion - Commissioner Latvala  
Second - Commissioner Roche

In response to query by Commissioner Roche regarding the redesign and cost increase of the project, Mr. Quintas indicated that an underground electrical conduit that fed one of the building facilities would be too costly to move; that a redesign of the storm sewer system is more cost effective; and that the problem was not discovered before the design phase was complete.

Vote - 6 – 1 (Commissioner Morroni dissenting)

- #20 Resolution No. 13-54 adopted approving Project B3032533540 as a qualified applicant pursuant to Section 288.106, Florida Statutes, and identifying sources of local county financial support as local participation in the Qualified Target Industry (QTI) Tax Refund Program (total contribution of Pinellas County will not exceed \$48,000.00 to be paid over a series of fiscal years as determined by the State) (Strategic Planning and Initiatives).

Motion - Commissioner Roche  
Second - Commissioner Latvala

In response to query by Commissioners Roche and Seel regarding the change in the award amount from the May 7, 2013 board meeting of \$4,000.00 per job, Economic Development Director Mike Meidel indicated that because the County was competing with other projects, there was a need to motivate the applicant by offering a high impact sector bonus of an additional \$2,000.00 per job created; and that a high impact sector business would include highly technical manufacturing with an engineering component, financial services, information technology, and corporate head quarters.

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Responding to query by Commissioner Long as to when the Board would learn the identity of the applicant, Mr. Miedel indicated that if the applicant accepts the County's offer, it will sign a final agreement with the State and, six months thereafter, the County must make all the information public.

Vote - 7 - 0

#21 Other Administrative Matters – None.

#22 County Attorney

#### Legal Rules of the Road for Making Land Development Decisions

Attorney Bennett related that the Board will have a joint work session on Thursday of this week regarding the planning process and land development regulatory process relating to modifying the system going forward in anticipation of the redevelopment scenario. Noting that questions have been raised about Quasi-Judicial and Legislative decision making, he indicated that the Board's need to understand the legalities of both kinds of decision making in the context of development is focused on two things: (1) the due process considerations attendant to the people who own the property, the people who live in the neighborhoods surrounding the property, and the public generally; and (2) how the Courts view the Board's decision making. He indicated that the Board's need-to-know also extends to its delegated boards, such as the Board of Adjustment (BA) and the Local Planning Agency (LPA).

Attorney Bennett presented a discussion page titled *Due Process Requirements - Legislative and Quasi-Judicial Decisions*, a copy of which has been filed and made a part of the record, and indicated that the due process considerations under each are:

- Legislative Decisions
  - Notice - Opportunity to be Heard - Decision that is Consistent with the Comprehensive Plan
  - Land Development Regulatory Ordinances Generally
  - Countywide Comprehensive Land Use Plan Amendments
  - Unincorporated Land Use Plan Amendments
  - Standard of Review: Fairly Debatable
  - Non-delegable

- Quasi-Judicial Decisions

- Notice – Right to Present Evidence/Right to Cross-Examination – Unbiased Decision-Maker – Decision Based on the Record – Decision is Consistent with the Comprehensive Plan and LDR's
- Rezone, Site Plan, Development Agreement, Building Permit, Variance, Special Exception, Conditional Use
- Standard of Review: Supported by Competent/Substantial Evidence On The Record
- Delegable with Criteria

Legislative Decisions

Attorney Bennett stated that a Legislative decision is essentially creating policy; and that Legislative decisions the Board would make include adopting and amending ordinances, approving or amending land development regulations, amending the Comprehensive Plan, and changing the land use designation on a parcel of land within the body of the Future Land Use Map. He related that there are only two considerations a citizen is entitled to in a Legislative process: Due Notice and the Right To Be Heard. Attorney Bennett related that only the Board can exercise Legislative authority; that the Board cannot delegate that authority; and that as long as the minimum statutory requirements for due process have been met and the Board has not acted arbitrarily and capriciously or has not de facto taken someone's property without due process of law, the Courts do not generally look at the Legislative function because of the separation of powers issue.

Quasi-Judicial Decisions

Explaining that a Quasi-Judicial decision is the application of the Board's Legislative policy to a given issue, Attorney Bennett related that the only two Quasi-Judicial land development issues that come before the Board are rezoning and conditional uses, as everything else has been delegated to staff or to other boards, including site plans, development agreements (come before the Board, but usually as a companion to either a zoning or land use amendment), building permits, and variances or special exceptions.

Attorney Bennett indicated that the one issue that overrides both Legislative and Quasi-Judicial decisions is the requirement for consistency with the Comprehensive Plan.

Attorney Bennett discussed the Board of Adjustment, which handles special exceptions and variances; the Local Planning Agency, which was created to advise the Board on whether or not a requested zoning change, a land use designation, or a conditional use is

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consistent with the Board's Comprehensive Plan; and provided historical information about the Pinellas Planning Council (PPC).

Attorney Bennett indicated that an entity to which the Board has delegated authority does not have unbridled discretion, as it must use the land development code as the basis for making decisions. He discussed due process considerations, such as proper notice (involves assuring that the public has access to all material to be considered, including plot plans, traffic studies, and any pertinent conversations); the right to present evidence; the right to be heard; and the need to base the decision on the record. He discussed the right to cross-examine, noting that it is a component of the right to be heard; and related that a Quasi-Judicial proceeding is not formal, with competing rules of evidence and objections, but is designed to be open, participatory, and inviting to people; that questions must go through the Chairman; and that while the Board members cannot be cross-examined, it is permissible to cross-examine staff and anyone who comments.

Emphasizing the importance of the record to a Quasi-Judicial proceeding, Attorney Bennett indicated that a record must be carefully built to demonstrate that the decision is supported by competent and substantial evidence, noting that if a case is reviewed by the Court, new evidence cannot be presented. He related that if a Quasi-Judicial decision is challenged, it is reviewed by the Circuit Court, explaining that he submits a brief to the Court, the Court reviews the brief, the Court decides whether or not to allow oral arguments, and, if argument is allowed, the case is argued from the case papers and the verbatim transcript. He indicated that the Court defers to the Board in its interpretation of its own Comprehensive Plan policies and its Codes, but does have the right to question the decision; whereupon, he discussed factors the Court considers in making its ruling, including competency and quality of the evidence.

Attorney Bennett stressed the importance of the Board being an unbiased decision maker, and discussed ex-parte communications. He explained that the information presented to the Board during a hearing by an attorney for the applicant is not evidence, it is only argument; and that it is important for the applicants to put evidence in the record as well as argument.

Attorney Bennett indicated that he is working with Clerk Ken Burke to simplify the swearing in of witnesses so that the procedure is the same for all the boards; and that a SharePoint site on the Planning Department website has been developed that lists upcoming Quasi-Judicial applications so the Board will know who the principals are and whether or not it is appropriate to schedule a meeting.

Attorney Bennett answered queries by the members throughout the discussion:

Q Does this presentation have anything to do with the Safety Harbor case? *(Roche)*

A The Safety Harbor case was a Legislative decision. The impetus for today's overview of Legislative and Quasi-Judicial decisions was (1) the Board is beginning to get types of cases that have not been seen in a long time, and (2) to prepare for the larger discussion about the planning process to be held later this week.

Q Did the Board make an error in the Safety Harbor decision? Did it do anything to conflict with its duty? Would a "deny with prejudice" or a "deny without prejudice" vote have prevented the case coming back? *(Roche)*

A No. It was handled correctly. The Board made a Legislative decision and its motive is not subject to inquiry under deposition.

Q Why was the Safety Harbor case a Legislative decision? *(Seel)*

A It involved a land use amendment.

Q When a case comes before the Board as an agenda item, whether it be Quasi-Judicial or Legislative, does the Board have final authority? *(Roche)*

A Yes. Any matter that makes it onto the agenda is presented for the Board's decision.

Q If information concerning Code violations is presented to the Board, does it become part of the record and can it be considered in the decision making process? *(Roche)*

A Yes, it becomes part of the record, but it is not relevant as a basis for a decision. Just because something is in the record and supported by the verbatim does not mean it is relevant.

Q When the Board delegates authority, is it relinquishing final authority? *(Roche)*

A It depends. Some of the boards are advisory; the Board of Adjustment is not. When the Board of Adjustment issues a variance or a special exception, the Board of County Commissioners is not allowed to interfere. An exception would be a variance within or attached to a development agreement. But, beyond that, the Commission has delegated final authority to the Board of Adjustment to issue variances and special exceptions, and the matter will not appear on a BCC agenda. Should a Board of Adjustment decision be brought up under "Citizens To Be Heard," the Board would have no authority to take jurisdiction over what is

already a final decision. The Courts have jurisdiction over review of a final decision for a matter the Board has fully delegated to the Board of Adjustment.

Q Could authority that has been delegated be taken back? *(Roche)*

A The Code would have to be amended to take back delegation.

Q Do the individuals that the Board appoints to entities such as the Board of Adjustment and the Local Planning Agency get an overview like you are presenting now? *(Long)*

A All the members of the delegated boards receive training.

Q Is it inappropriate for the members to contact a Board of Adjustment or a Local Planning Agency member to discuss a case? *(Seel)*

A General questions are acceptable; however, a discussion of an individual case is considered ex-parte communication and is forbidden.

Q What constitutes a substantive conversation? *(Roche)*

A Use common sense to gauge whether the conversation is substantive. If the case is discussed in detail, it would be a substantive conversation.

Q Why are more big cases coming before the Board? *(Justice)*

A The economy, redevelopment, the Economic Development Department.

Q Who can be cross-examined? *(Welch)*

A The Board members cannot. Staff, anyone who makes a presentation, and anyone who comments are subject to cross-examination. Questions must go through the Chairman. It is not just attorneys who can cross-examine; anyone can.

Q Is the public informed ahead of time that if they speak they are subject to cross-examination? *(Morroni)*

A It is built into the Code. More information can be provided if the Board wishes.

Q Does the Court assume that whatever decision the Board makes was made purely on the presented evidence? *(Roche)*

A No. You bring your life experience to your judgment.

Q Is it okay to use common sense when making decisions, such as in relation to traffic reports? *(Long)*

A I encourage you to utilize your good judgment and life experience when making decisions.

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At this time, 11:00 A.M., Commissioner Seel left the meeting.

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#23 County Attorney Miscellaneous – None.

#24 Acting as the Emergency Medical Services (EMS) Authority, the Board appointed Kris Hoce to the EMS Medical Control Board, to fill the Hospital Administrator position vacated by Glenn Waters and Mr. Anthony Degina, Jr., to fill the Hospital Administrator position vacated by Stephen Daugherty.

Motion	-	Commissioner Latvala
Second	-	Commissioner Long
Vote	-	6 – 0

#25 Sitting as the Emergency Medical Services Authority, the Board approved the appointment of Oldsmar Mayor Doug Bevis to the Pinellas County Emergency Medical Services (EMS) Advisory Council.

Motion	-	Commissioner Latvala
Second	-	Commissioner Long
Vote	-	6-0

#26 County Administrator Reports

Property Assessed Clean Energy (PACE)

Mr. LaSala indicated that in response to a request by the Board, Public Resources Advisory Group, the County's financial advisor, will provide a presentation regarding PACE programs in Florida; that correspondence has been received from certain providers; and that staff is requesting guidance from the Board.

Marianne Edmonds, Senior Managing Director, Public Resources Advisory Group, referred to a memorandum dated May 22, 2013, a copy of which has been filed and made

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a part of the record, and identified changes in the PACE program since it was last considered by the Board in September of 2012; provided information about the status of PACE programs and solicitation in the state; and discussed implementing a residential program, a commercial program, or both, in Pinellas County.

Ms. Edmonds related that the Federal Housing Finance Agency (FHFA), conservator for Fannie Mae and Freddie Mac, directed the agencies not to purchase any mortgage where PACE financing with a priority lien has been placed on the underlying property; that several entities sued, and, as indicated in the above mentioned memorandum, the court found that FHFA can direct Fannie Mae and Freddie Mac not to purchase these mortgages; and that this ruling severely limits the use of PACE for residential property improvements because no property that has a Fannie Mae or Freddie Mac mortgage can use the assessment program.

Ms. Edmonds related that there are three active providers in Florida, and provided information on each. She indicated that none of the vendors are funded at the moment, although one is close to having its funding in place, but has not completed all the documentation.

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At this time, 11:21 A.M., Commissioner Seel returned to the meeting.

\* \* \* \*

In response to query by Chairman Welch regarding the County taking an active role versus hiring an administrator, Ms. Edmonds stated that the vendors present would be better able to respond to his query, but if she was making a decision as a commissioner, she would want to be a participant, although it would put a burden on staff; whereupon she discussed piggy-backing on an existing competitively bid contract, noting that there are none she could recommend.

In response to query by Commissioner Justice regarding the percentage of mortgages in Pinellas County that are residential, Ms. Edmonds indicated that she has not seen any figures that were reliable; whereupon Commissioner Justice pointed out that the Board should have accurate numbers before making a decision.

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Ms. Edmonds discussed what has been occurring in the different cities and counties, noting that it is difficult to reach a conclusion on what any particular one has done. She discussed the different program structures and uses for the program, pointing out that it would be more viable for commercial properties than for residential; and that the County could take either an active position or hire a vendor to handle the program.

In summary, Ms. Edmonds related that not much activity has taken place since the Board last visited the issue, and discussed the options available to the Board going forward.

In response to query by Commissioner Morroni, Ms. Edmonds stated that she is unaware of any participating governments that are piggy-backing on contracts; whereupon, Commissioner Morroni stated that he would prefer to have some history before the Board considered that option.

In response to query by Commissioner Justice regarding the types of projects that would qualify for the program, Ms. Edmonds stated that state law provides that, in addition to clean energy and energy efficiency, wind resistance and hurricane hardening improvements are included in Florida Statutes.

Responding to query by Chairman Welch as to why the commercial side of the program has not gained traction, Ms. Edmonds related that upfront fees associated with the program have to be paid by both the contractor and the borrower to participate; that borrowing costs may be a markup from the flat borrowing rate; and that commercial borrowers are unsure about their first mortgagor's position should they place an assessment on the property.

In response to the Chairman's call for public comment, the following individuals presented information and responded to queries by the members:

Mark Ogles, Ygrene Energy, Tampa

- Provided background information regarding his company, and expressed interest in an opportunity to bid for third-party administrator services for the PACE program; asserted that hardening a home or business could reduce property insurance by 50 to 70 percent; and that the program can be used for water conservation projects and new roofs. Responding to query by Chairman Welch, he indicated that his company is very active in Miami-Dade County and the City of Miami. In response to query by Commissioner Morroni, he indicated that Lee County is willing to piggy-back with other counties looking to partner;

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whereupon, Commissioner Morroni remarked that Mr. Ogles is a former State Representative and served with him in the state house for eight years.

John Wakefield, Lykes/Ecoasset Solutions/Ygrene Energy, Tampa

- Provided background information regarding his company, and expressed interest in an opportunity to bid for third-party administrator services for the PACE program. In response to query by Chairman Welch, he indicated that his company not only engages with contractors, but also engages with property owners to educate them on PACE; that there has been no interaction with Florida Power and Light in the program in Miami-Dade; and that an interlocal agreement exists between the various cities in the Miami-Dade area.

John Overmyer, Wind Water & Energy Conservation, St. Pete Beach

- Provided background information regarding his company, noting that his company is finishing jobs in three states, but very few in this area because the Commission has not taken an active stance regarding the program; that the company has completed a project for St. Petersburg Catholic School and is working with the City of Gulfport; and that the City of St. Pete Beach is interested in the program as well, but they, too, are waiting for the County to move forward.

Commissioner Latvala indicated that enough information and data have been provided for the Board to move forward for an RFP; that the residential part of the program is concerning, however, it is beneficial to move forward with the commercial program; that if Fannie Mae and Freddie Mac change their opinion, or there are changes in the market place, the residential portion of the program can be added at a later date; and that an RFP would not obligate the Board, as it could change its mind for any reason, and Commissioner Long concurred.

Commissioner Morroni related that the cities are waiting for the County to take the lead so they can piggy-back on the County contract; that some questions need to be answered; that the Board has been talking about this program for quite some time; and that he concurs with Commissioners Latvala and Long that the time has come to move forward.

In response to query by Commissioner Roche, Attorney Bennett indicated that the lien on the property would become primary and would become co-equal with the property tax, and Ms. Edmonds provided input.

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Discussion ensued and Commissioner Roche expressed concern that Private Mortgage Insurance (PMI) could kick in and put the borrower in a possible foreclosure position; whereupon, Chairman Welch indicated that he shares the concern regarding the PMI, and Ms. Edmonds agreed to research the PMI question and provide an answer.

In response to query by Commissioner Seel, Ms. Edmonds stated that she would research whether the assessment would be tax deductible and provide an answer; whereupon, Commissioner Seel questioned why a borrower would pay 6.9 percent interest and have no benefit of a tax deduction when they can borrow at a lower interest rate and take a tax deduction, and Chairman Welch concurred.

Commissioner Justice stated that the program is not mandatory; that it is an opportunity for people who wish to do so to take advantage of the program; whereupon, he concurred that the process needs further vetting; and stated that the program should move forward.

Commissioner Roche expressed concern that the program would create another housing bubble, as 60 percent of the housing in Pinellas County is being sold to investors. He reiterated his concern with the lien assessment taking priority over a mortgage; and stated that the County should not allow the TRIM notices to become a financial structure for private industry.

\* \* \* \*

At this time, 11:56 A.M., Commissioner Seel left the meeting.

\* \* \* \*

Thereupon, Chairman Welch stated that there is a consensus to move forward with the PACE project and to include residential property.

Commissioner Latvala moved, seconded by Commissioner Long that staff prepare an RFP to implement the PACE program in Pinellas County

In response to query by Chairman Welch as to whether the program would be countywide, Mr. LaSala related that it would be countywide, but the cities would have the right to exempt themselves from the program.

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Thereupon, Commissioner Latvala corrected her motion to direct staff to prepare an RFP to hire a provider to manage the PACE program, and the seconder concurred.

Vote - 5-1 (Commissioner Roche dissenting)

#27 County Administrator Reports

Emergency Management Hurricane (EMS) Preparation

Ms. Bishop conducted a PowerPoint presentation and provided an update of the County's hurricane protection program, a copy of which has been filed and made a part of the record.

Ms. Bishop indicated that a Category 5 hurricane, or Level E evacuation, would cause a storm surge of 26 to 29 feet and would affect approximately 600,000 people out of a total population of about 948,000. She related that there are 278,000 housing units in the evacuation areas, as well as six hospitals with approximately 1,600 patients, 36 nursing homes with over 5,000 residents, and numerous assisted living facilities with 3,800 residents.

Ms. Bishop indicated that half of our schools are in surge zones, as well as utility infrastructure, power facilities, and water treatment and waste treatment plants; and that as a peninsula on a peninsula, Pinellas County has long been recognized as one of the most vulnerable areas in the United States to a hurricane, second only to New Orleans.

\* \* \* \*

At this time, 12:05 P.M., Commissioner Seel returned to the meeting.

\* \* \* \*

Ms. Bishop showed slides of the aftermath of Hurricane Katrina in Mississippi and New Orleans, and the collapse of the I-10 Bridge; and stated that losing any one of the area bridges would make it very difficult to navigate around Pinellas County and the Tampa Bay area.

Ms. Bishop related that as Pinellas County has never experienced a large recovery event, the opportunity to learn from others' experiences is valuable; that some of the lessons learned from Hurricane Katrina confirm that the Pinellas County plan is good; that plans are essential, but are dependent upon the people and partnerships involved; and that it is

essential to share the possibilities of what could happen with the rest of the community in order to improve preparedness.

In response to queries by Chairman Welch, Ms. Bishop related that the County has always recommended citizens have seven days of provisions, as the County is a peninsula with few routes of ingress and egress; that Solid Waste has a very substantial debris removal plan that has been approved by the State and the Federal Emergency Management Agency; and that she would electronically provide an updated copy of the newest hurricane model.

In response to query by Commissioner Latvala regarding the bridge vulnerability level, Ms. Bishop stated that some sections on all bridges would probably be lost, but it would depend on storm surge and wave action.

In response to query by Commissioner Long, Ms. Bishop stated that the barrier islands are unique and that the EMS is very concerned about evacuation preparedness and municipalities being prepared to function as a jurisdiction off the islands.

In response to queries by Chairman Welch regarding the 800 megahertz radio system, Bruce Moeller, Public Safety Services, related that recommendations have been made to move the system from the current Sunstar Facility to the Public Safety Building; clarifying that, technically, it is not a relocation, as purchase of a new master and prime controllers have been made and will be installed at the Public Safety Building; whereupon, Mr. Moeller indicated that the present facility is not in a flood zone, however, the structure would not survive a Category 5 storm; that consultants recommended that the system be moved to a more hardened facility such as the new Public Safety Building; that the present system would be used as a backup system in case of a physical failure of equipment; and that it will be discussed further at the Community Improvement Project meeting later in the week.

#28 County Commission Miscellaneous:

- a. Commissioner Long announced that the Honor Flight is coming in tonight at the St. Petersburg-Clearwater International Airport at 9:20.
- b. Commissioner Justice reported that he finished his departmental briefings last week, and expressed his appreciation to the volunteers at the Animal

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Services Center and the leadership of Maureen Freaney.

c. Chairman Welch

appointed Commissioner Justice to the Job Core Director Steering Committee; whereupon, Commissioner Latvala moved, seconded by Commissioner Long and carried, that Commissioner Justice be appointed to the Job Core Director Steering Committee.

Meeting adjourned at 12:38 P.M.

ATTEST: KEN BURKE, CLERK

By \_\_\_\_\_  
Deputy Clerk

\_\_\_\_\_  
Chairman