

AGENDA ITEM # 1  
July 23, 2013

1. APPROVAL OF MINUTES:

Regular Meeting held June 18, 2013.

**BOARD OF COUNTY COMMISSIONERS MEETING  
TUESDAY, JUNE 18, 2013 – 2:03 P.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; and Janet C. Long.

**Not Present:** John Morroni.

**Others Present:** James L. Bennett, County Attorney; Robert S. LaSala, County Administrator; Claretha N. Harris, Chief Deputy Clerk; and Michael P. Schmidt and Arlene L. Smitke, Board Reporters, Deputy Clerks.

**INVOCATION:** Reverend Glad McCurtain, St. John's Episcopal Church, Clearwater.

**PLEDGE OF ALLEGIANCE:** Commissioner Justice.

**PRESENTATIONS AND AWARDS:**

1. Presentation of Partnership with Moffitt Cancer Center Proclamation.
2. Tampa Bay Area Regional Transportation Authority (TBARTA) Master Plan.

Bob Clifford, Executive Director, TBARTA, conducted a presentation titled *A Connected Region for Our Future -- Master Plan Update*. He discussed the Regional Transportation Master Plan, indicating that the 2013 update focuses on refining the transit, freight, and roadway networks and includes local, regional, and state progress and steps taken toward implementing the regional vision of TBARTA; whereupon, he indicated that TBARTA is working to build public dialogue as part of the update process, and provided information pertaining to the Managed Lanes Network, Telephone TownHall meetings, and similar topics.

Following the presentation, Chairman Welch and Commissioner Seel thanked Mr. Clifford for his hard work and dedication and Commissioner Justice commented that he is pleased that TBARTA is focusing on tourist-related transit as well as commuter-related transit; whereupon, Mr. Clifford related that his next update will center around the impact of technological changes on transportation.

3. 2013 Legislative Session Report.

Peter M. Dunbar and Martha J. Edenfield, Pennington Law Firm, provided an end of session review, with Mr. Dunbar indicating that a written report was provided to the members covering each bill and its current status; and that the members will continue to be updated as the bills flow to the Governor for signature; whereupon, he related that the Legislative Session was congenial and productive, that the overall budget process went smoothly; that Pinellas County fared well and was left untouched by the Governor in his line item veto process; and that the session finished on time.

Mr. Dunbar briefly discussed two bills that have been of recurring interest in the County, relating that the local fertilizer ordinance bill was unsuccessful and did not pass; and that the bill regarding sales tax policies for online travel companies was not acted upon and is now before the Florida Supreme Court; whereupon, Mr. Dunbar related that he is turning his attention to the upcoming 2014 Legislative Session and has spoken with Assistant County Administrator Carl S. Harness regarding areas on which to direct his focus.

In response to comments and queries by Commissioner Latvala, Mr. Dunbar indicated that the bill regarding statewide legislation to abolish pill mills did not pass; that the Attorney General has been generally supportive of such legislation; that he expects the bill to be reintroduced; and that the upcoming election year could contribute to the success of a bill; whereupon, he briefly discussed the swift manner in which the State Legislature banned Internet Cafés and how a significant catalyst could help in getting legislation passed to abolish pill mills, and agreed to focus on the issue going forward.

Responding to queries by Commissioner Roche, Mr. Dunbar presented information regarding the Sadowski Affordable Housing Act pertaining to the Foreclosure Settlement Funds. He indicated that the Mortgage Settlement Bill was settled for approximately \$250 million; and that it appropriates funding to several state entities for various housing- and foreclosure-related programs and services, including providing assistance to three major housing categories and support to the court system and clerks of court; whereupon, Mr. Dunbar provided additional information regarding those entities which have benefited from the foreclosure settlement, relating that the settlement dollars partially reimburse the Sadowski Trust Fund.

## **CITIZENS TO BE HEARD**

Chairman Welch reminded the public that if they wish to show a video during the Citizens To Be Heard portion of the meeting, the video needs to be provided to the County at least three working days prior to the meeting; and that he is going to request that the timeframe be extended to at least five working days due to logistical considerations.

Andrea Wells, Clearwater, re spay/neuter – Best Friends “Fix at Four” – Video #1 \*  
Andrea Barlow, Seminole, re mandatory spay/neuter – Avoiding the Shelter/Bob Barker – Video #2 \*  
Aja Estro, Clearwater, re spay/neuter mandate – Rep. Randolph, FOX – Video #3  
Wendy Smith, Palm Harbor, re Today Show – Video #4 \*  
Jamie Blackstone, Clearwater, re Turned Away/No Kill – Video #5 \*  
Trisha Kirby, Clearwater, re mandatory spay/neuter  
Hillary Hart, DVM, St. Petersburg, re mandatory spay/neuter, public health  
Pat Johnson, Seminole, re mandatory spay/neuter  
Mary Claire Burris, St. Petersburg, re spay/neuter  
Pamela Moore Shear, St. Petersburg, re animal laws and rights  
Lenore Faulkner, Madeira Beach, re Pinellas County Schools education excellence  
David Ballard Geddis, Jr., Palm Harbor, re reclaimed water occupation  
Greg Pound, Largo, re families

*\* Spoke on behalf of others in attendance*

## **CONSENT AGENDA ITEMS NOS. 1 THROUGH 11 – APPROVED, WITH THE EXCEPTION OF ITEMS NOS. 9, 10, AND 11b, WHICH WERE CONSIDERED UNDER ITEM NO. 12.**

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

### **# 1 Minutes**

Minutes of the regular meeting of May 21, 2013 approved.

### **# 2 Reports received for filing:**

Division of Inspector General, Audit Services, Clerk of the Circuit Court and Comptroller, Report No. 2013-15 dated May 23, 2013 – Follow-Up Audit of Utilities Billings Customer Information System.

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# 3 Vouchers and Bills Paid

Period May 12 through May 18, 2013

Payroll – None.

Accounts Payable

Checks – \$4,824,958.18

ACH Transfers – \$3,964,100.86

Wire Transfers – \$1,650,251.67

# 4 Miscellaneous items received for filing:

- a. City of Clearwater Notices of Intent to Consider Development Agreements regarding proposed Resolutions No. 13-05 (Clearwater Grande Development, LLC) and No. 13-06 (Sea Captain) to be held June 19, 2013.
- b. City of Clearwater Notices of Public Hearings to be held July 18, 2013, regarding proposed Ordinances Nos. 8403-13 through 8408-13, and Nos. 8412-13 through 8417-13 amending the Annexation, Land Use Plan, and Zoning Atlas.
- c. City of Oldsmar Ordinance No. 2013-12 adopted May 21, 2013, voluntarily annexing certain property.
- d. Clearwater Cay Community Development District proposed Fiscal Year 2013-2014 Annual Operations and Maintenance and Debt Service Fund Budgets.

# 5 WorkNet Pinellas, Inc. Program Year 2013-2014 Budget approved pursuant to the Interlocal Agreement between WorkNet Pinellas, Inc. and Pinellas County.

# 6 DELEGATED ITEMS APPROVED BY THE COUNTY ADMINISTRATOR – RECEIVED FOR FILING (COUNTY ADMINISTRATOR)

<u>Department</u>	<u>Item</u>	<u>Dollar Value</u>	<u>Date Approved</u>
Airport	Operating Permit for Non-Exclusive Commercial Group Transportation with: (a) Red Rose Limousine, Inc. d/b/a Airport Express (b) Paradise Limousines of Pinellas County, Inc. d/b/a Paradise Worldwide Transportation (c) Checker Leasing, Inc.	(a) – (c) \$600.00 each Annual Revenue	5.28.13
Airport	Operating Permit with Hampton Inn & Suites for Non-Exclusive Commercial Ground Transportation	\$600.00 Annual Revenue	5.7.13

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<u>Department</u>	<u>Item</u>	<u>Dollar Value</u>	<u>Date Approved</u>
Animal Services	Broadcast Agreement with WTIS-AM, Inc. for promotion and education of animal services	N/A	5.20.13
Clerk of the Circuit Court	Risk Management Allocation Agreement with the Board of County Commissioners	N/A	5.9.13
Communications	Agreement with Custom Microsystems, Inc. for Technical Consulting Services	\$62,400.00 Annual Expenditure	5.31.13
Community Development	Release of Liens (2)	Liens have been paid in full	5.30.13
Community Development	(a) Satisfaction of Mortgage (1)	(a) Liens have been paid in full	5.29.13
Community Development	(a) Satisfaction of Mortgage (2) (b) Release of Lien (1)	(a – b) Liens have been paid in full	5.21.13
Community Development	(a) Specific Performance Agreement with Girls Incorporated of Pinellas for renovations at the Girls Incorporated Facility  (b) Specific Performance Agreement Amendment with Directions for Mental Health, d/b/a Directions for Living for facility improvements	(a) \$30,000.00 Community Development Block Grant (CDBG) Funds  (b) \$100,000.00 Additional CDBG Funds	5.20.13
Community Development	Satisfaction of Mortgage (3)	Lien has been paid in full	4.22.13
Department of Environment and Infrastructure	Release of Cash Completion Surety for Sterling Auto Body	N/A	5.28.13
Department of Environment and Infrastructure	Temporary Waiver for Alcoholic Beverages with Old Palm Harbor Main Street, Inc. for the Parrot Head Party.	N/A	5.17.13
Department of Environment and Infrastructure	U.S. Army Corp of Engineers Joint Coastal Permit Application for the Honeymoon Island Beach Nourishment Project	N/A	5.3.13
Department of Environment and Infrastructure	Notice of Liens (13)	N/A	4.18.13

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<u>Department</u>	<u>Item</u>	<u>Dollar Value</u>	<u>Date Approved</u>
Department of Environment and Infrastructure	(a) Southwest Florida Water Management District Water Use Permit Letter Modification Short Form with Tampa Bay Water and Pinellas County for Brooker Creek Preserve WUP Number 20012062.001	(a) N/A	4.12.13
	(b) Release of Liens (23)	(b) All liens have been paid in full	
Department of Environment and Infrastructure	(a) Notice of Lien (1)	(a) N/A	4.3.13
	(b) Release of Liens (35)	(b) All liens have been paid in full	
Department of Environment and Infrastructure	Notice of Liens (7)	N/A	4.1.13
Department of Environment and Infrastructure	Notice of Liens (10)	N/A	3.22.13
Department of Environment and Infrastructure	Release of Liens (17)	All liens have been paid in full	3.21.13
Emergency Management	License Agreement with the Clearwater Housing Authority for Communication Equipment on the Barbee Tower Apartment Building	N/A	5.17.13
Health and Human Services	Health Program Specialty Provider Agreement with MPM Cardiology Services, LLC	\$3,715,000.00 FY 2013 Pool Expenditure	5.21.13
Health and Human Services	Master Health Program Specialty Provider Agreement Second and Final Option of Renewal for health services to Pinellas County Health Program participants	\$3,715,000.00 FY 2014 Pool Expenditure	5.17.13
Health and Human Services	Amendment No. 2 to the Agreement with the State of Florida, Department of Health for the Operation of the Pinellas County Health Department, FY 12-13 for funding adjustments	N/A	4.10.13
Real Estate Management	First Amendment to License Agreement with the City of Clearwater for access to County property	N/A	5.30.13
Real Estate Management	Sixth Amendment to the Antenna Tower License Agreement with New Cingular Wireless PCS, LLC for monthly license fee increase	\$1,533.63 Monthly Revenue	5.21.13

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<u>Department</u>	<u>Item</u>	<u>Dollar Value</u>	<u>Date Approved</u>
Real Estate Management	Amendment to Joint Use Agreement with the Pinellas County School Board	N/A	5.9.13
# 7	Bids of John Mader Enterprises, Inc., Regional Engineering & Services, Inc., and Tampa Armature Works, Inc. accepted for pumps, parts, and repairs (Contract No. 123-0146-B), on the basis of being the lowest responsive, responsible bids received meeting specifications. Pinellas County estimated 24-month expenditure not to exceed \$850,000.00; 24-month contract effective July 6, 2013 with one 24-month term extension; term extension allows for price adjustments in an amount not to exceed the average of the Consumer Price Index [CPI] for all urban consumers, not seasonally adjusted, for the 12 months prior to extension, contingent upon availability of funds and subject to County Administrator approval.		
# 8	Plats, Guaranties, Sureties, and Agreements:  Coconut Grove Executive Park – plat accepted and approved for recording.		
# 9	See Agenda Item No. 12.		
#10	See Agenda Item No. 12.		
#11a	Award of bid to Interconn Resources, LLC for the supply and management of natural gas (Cooperative) (Contract No. 123-0180-B) approved on the basis of being the lowest responsive, responsible bid received meeting specifications; 24-month contract effective July 1, 2013 with one additional 24-month term extension at the same prices, terms, and conditions pending approval by the County Administrator (Pinellas County estimated 24-month expenditure not to exceed \$918,089.82; total co-op estimated 24-month expenditure not to exceed \$149,374.04; total contract estimated 24-month expenditure not to exceed \$1,067,463.86) (Purchasing).		
#11b	See Agenda Item No. 12.		
#11c	Award of bid to Bentzel Mechanical, Inc. for Chiller 5 removal and replacement at the STAR Center (Bid No. 123-0267-CP; Project No. 000902A/1616) approved for an estimated total expenditure in the amount of \$434,000.00 on the basis of being the lowest responsive, responsible bid received meeting specifications; all work is expected to be		



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completed within 155 consecutive calendar days; Chairman authorized to sign the agreement and the Clerk to attest (Real Estate Management/Purchasing).

#12 Items for discussion from Consent Agenda (County Administrator and Clerk of Circuit Court)

- # 9 Cooperative Agreement with the U.S. Army Corps of Engineers (USACE) and Pinellas County for the repair and restoration of Treasure Island Beach (PID No. 000048A/2069) approved (USACE Funding, \$2,401,800.00; no County funds required); Chairman authorized to execute the agreement and the Clerk to attest.

In response to queries by Commissioner Seel, Department of Environment and Infrastructure Coastal Manager Andrew P. Squires indicated that Sunset Beach and other Treasure Island beaches will be nourished at the same time; whereupon, he provided general, statistical, and financial information regarding the project, and indicated that the U.S. Army Corp of Engineers and the State of Florida recognized the need for additional funding to complete a full nourishment of Treasure Island; that federal, state, and local dollars will fund the project; and that while Pinellas County will provide approximately \$4 million upfront, it will be reimbursed by the state for \$2 million.

Thereupon, Mr. Squires introduced John Bishop, Coastal Coordinator, as a new member of his department.

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

- #10 Cooperative Agreement with the Southwest Florida Water Management District (SWFWMD) and Pinellas County for the Taylor Reservoir Shoreline Restoration Project (N496-2) (Contract No. 13C00000038) approved (total estimated cost, \$1,002,000.00; SWFWMD to provide \$501,000.00); Chairman authorized to execute the agreement and the Clerk to attest (Parks and Conservation Resources).

Commissioner Roche pointed out that even though the shoreline restoration project is being submitted by the Parks and Conservation Resources Department and will be funded with capital improvement dollars, it is essentially a stormwater project similar to several others invested in by Pinellas County; whereupon, Commissioner Roche related that he supports using Penny for Pinellas dollars to

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fund stormwater projects; and that he brings the information forward to provide context for items to be heard later in the meeting.

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

- #11b Award of bid to Southern Folger Detention Equipment Company, LLC for Jail Door Renovation – Pinellas County (Bid No. 123-0200-CP; Project No. 000873A) approved for an estimated total expenditure in the amount of \$908,039.00 on the basis of being the lowest responsive, responsible bid received meeting specifications; all work is expected to be completed within 270 consecutive calendar days; Chairman authorized to sign the agreement and the Clerk to attest (Real Estate Management/Purchasing).

In response to queries by Chairman Welch and Commissioner Roche, Paul S. Sacco, Director, Real Estate Management, indicated that the purpose of the project is to replace worn out cell door hardware at several Pinellas County Jail detention facility wings; and that the \$908,039.00 in project funding is being provided by the Penny for Pinellas out of the \$225 million allocation for Courts and Jails; whereupon, Commissioner Roche related that he has been keeping a running total of the dollars spent on the larger-scale project.

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

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At this time, 3:43 P.M., Frederick L. Dean, Deputy Clerk, assumed Ms. Harris' place on the dais.

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- #13 Non-competitive purchase for 315 Court Street Energy Reduction Project and DDC Controls Upgrade with Automated Building Controls Systems, Inc. (PID Nos. 000857A and 000885A; Bid No. 123-0149-N) approved for an estimated total expenditure in the amount of \$669,760.00; funding provided through the Penny for Pinellas; all work is expected to be fully completed within 180 consecutive calendar days; Chairman authorized to sign and the Clerk to attest after proper execution of the agreement by the contractor (Real Estate Management/Purchasing).

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Motion - Commissioner Latvala  
Second - Commissioner Justice

In response to query by Chairman Welch regarding the discrepancy in the project financial overview sheets and the expenditure amount, Real Estate Management Director Paul S. Sacco related that unexpended funds will roll over to the next Fiscal Year; whereupon, Commissioner Roche noted a scrivener's error, and Administrator LaSala confirmed that the estimated total expenditure is \$669,760.00.

Vote - 6 – 0

- #14 Purchase authorization for electrical and lighting products and supplies from Graybar Electrical Company (Contract No. 123-0294-PB) approved for a total estimated 36-month expenditure of \$900,000.00; pricing, terms, and conditions based on the U.S. Communities sponsored contract with the County of Los Angeles, California (Contract No. MA-IS-1340234-1); provision for two 12-month term extensions contingent upon the availability of funds and approval by the County Administrator (Real Estate Management/Purchasing).

Motion - Commissioner Long  
Second - Commissioner Seel

In response to queries by Commissioner Seel, Purchasing Director Joseph Lauro related that the percentage discounts are utilized for contract comparison, as the contracts are large and the prices are competitive.

Vote - 6 – 0

- #15 Non-competitive purchase for installation of three potable water tank mixing systems at the specific locations enumerated in the agenda memorandum dated June 18, 2013, which has been filed and made a part of the record, with Utility Service Company, Inc. (PID No. 001442A/2106; Bid No. 123-0284-N) approved for an estimated total expenditure not to exceed \$417,576.00; funding provided through the Department of Environment and Infrastructure Utilities Water Enterprise Fund; all work is expected to be fully completed within 180 consecutive calendar days; Chairman authorized to sign and the Clerk to attest (Department of Environment and Infrastructure/Purchasing).

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

- #16a Authorization granted to advertise a public hearing to be held on July 9, 2013, regarding the Pinellas County Consortium's 2013-2014 Annual Action Plan for community

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planning and development programs funded with federal grant funds (Community Development).

Motion - Commissioner Roche  
Second - Commissioner Latvala

At the request of Administrator LaSala, Community Development Director Anthony M. Jones provided an overview of the Annual Action Plan and briefly explained the application process and how the recommendations as to who receives the funding are decided.

In response to query by Commissioner Roche regarding flexibility in project priority, Mr. Jones related that the Board set the application priorities last year; that because of spending deadlines, an alternate application is chosen if the priority application fails to move forward after 60 to 90 days; and that there is no flexibility outside of the Target Area Programs, as new projects would need to undergo the complete application process.

Vote - 6 – 0

- #16b Authorization granted to advertise a public hearing to be held on July 9, 2013, regarding a proposed ordinance amending the Pinellas County Code pertaining to high prescribers (Justice and Consumer Services).

Motion - Commissioner Latvala  
Second - Commissioner Roche

In response to query by Commissioner Long, Justice and Consumer Services Director Tim Burns, with input by Administrator LaSala, indicated that the proposed ordinance requires the continued registration of pain management clinics, not physicians, operating in Pinellas County.

Vote - 6 – 0

- #16c Authorization granted to advertise a public hearing to be held on July 9, 2013, regarding proposed amendments to the Pinellas County Code Sections 34-26 and 34-27 concerning the order of succession designated by the County Administrator for a state of emergency (Emergency Management).

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

- #17 Other Administrative Matters – None.

#18 County Attorney Miscellaneous – None.

#19 Resolution No. 13-55 adopted approving the issuance by the Housing Finance Authority of Pinellas County of its Multifamily Housing Revenue Bonds, Series 2013, in a principal amount not to exceed \$4,300,000.00 for the benefit of Urban Edge Partners II, LTD., a Florida limited partnership; no County general funds are required; all lendable funds are generated from the sale of tax-exempt housing bonds (Community Development/Housing Finance Authority).

Motion	-	Commissioner Roche
Second	-	Commissioner Latvala

In response to queries by Chairman Welch and Commissioner Roche, Director of Community Development Anthony M. Jones stated that the 40-unit development is located in a high rent area of downtown St. Petersburg, where the availability of affordable housing is minimal for students and the elderly; that all units will be rented to households having an annual income of less than 60 percent of the area median income; and that it is located on the northeast corner of the intersection of Third Street South and Fourth Avenue South.

Vote	-	6 – 0
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#20 Communities Putting Prevention to Work Grant Accomplishments

Paul Cozzie, Director, Parks and Conservation Resources, related that in 2010 the County received a grant under the Communities Putting Prevention to Work program for obesity prevention and contracted \$90,035.00 with the Department to increase physical activity in County Parks, noting that the grant ends on June 29.

Nancy Brown, Volunteer Program Coordinator, referred to a PowerPoint presentation, a copy of which has been filed and made a part of the record, and described three different programs that were developed to increase physical activities in the County parks.

Ms. Brown reported that the revitalized Auxiliary Ranger Program concentrated on additional courses and training in safety, first aid, and bicycle repair; and that 40 new auxiliary rangers were recruited and 34 former volunteers reactivated. She related that auxiliary rangers are equipped with a handbook and maps showing law enforcement jurisdictions and emergency trail markers, and wear bright yellow shirts so they are more visible to citizens; and that volunteer incentive awards included annual beach parking permits and resulted in substantially increased auxiliary ranger hours during the grant period.

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Ms. Brown stated that the Adopt-a-Mile Program for the Pinellas Trail is tailored after the Adopt a Mile program for roadways; and that within 60 days of its inception, over half of the trail was adopted by various organizations and individuals. She related that 57 volunteers participated in the Trash Bash, collecting over 1,300 pounds of trash.

Ms. Brown reported on the Adopt-a-Park Program, and related that businesses and organizations help maintain their favorite park by clearing litter, planting native vegetation, painting, and mulching; that they commit to one project each quarter with at least eight participants; and that groups that enroll in the Adopt-a-Park Program select one of the 15 regional county or beach parks, sign a service agreement with the Parks Department, and designate a contact person for the group, after which they are assigned their first project.

In response to query by Commissioner Latvala as to what happens when the grant ends, Mr. Cozzie indicated that the programs are sustainable; that they are being transitioned to the Department's full-time volunteer staff; that the Department has a contract with Keep Pinellas Beautiful; and that the program causes no additional work for staff.

In response to query by Chairman Welch, Mr. Cozzie indicated that there is a map on the website that shows the segments of the Adopt-a-Mile program.

#21 Reliable Septic and Sewer, Inc. Update Report

Director of Strategic Planning and Initiatives Larry Arrington indicated that he has been coordinating with various staff throughout County government to solve the problem, including the County Attorney; that the County Attorney will present a summary status report; and that other staff members are present to answer questions.

Attorney Bennett distributed copies of the *Status Report on Reliable Septic Compliance Issues as of June 10, 2013*, a copy of which has been filed and made a part of the record, and briefed the Board on the following five issues involving Reliable Septic, now M&D:

Legal Proceedings - Attorney Bennett related that a lawsuit was filed on the basis of zoning and site plan issues; that the issues have been resolved; and that the complaint will be dismissed.

Site Plan Approval - Attorney Bennett stated that the site plan has been approved and the applicant's timetable for compliance is included in the report.

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Industrial Pre-Treatment Permit Compliance - Attorney Bennett related that the Reliable Septic/M&D industrial pre-treatment permit involves compliance issues, some of which have been resolved and some of which are still outstanding, that must be resolved for permit compliance; that the primary concerns are the failure to file reports and the lack of an adequate sampling site; and that a new concern is that the meter on the City of Pinellas Park side of the discharge is not operating accurately, noting that the problem needs to be resolved quickly as the County uses the meter not only to check the self-reporting, but for billing and enforcement.

Air Quality - Attorney Bennett stated that there are a number of air quality issues that have been raised regarding enforcement; that counsel for Reliable Septic/M&D has requested that the County guarantee performance of the company's air quality system; and that the County is unable to comply with the request and will continue working to finalize a Consent Order.

NPDES Stormwater Compliance - Attorney Bennett stated that during investigation of a recent complaint filed by a neighboring property, the National Pollutant Discharge Elimination System (NPDES) compliance group found significant fecal coliform and enteric bacteria coming off the site into the stormwater system; and that staff will send a notice of violation to Reliable Septic/M&D, relating that further violations will subject the company to additional fines.

Thereupon, Attorney Bennett recommended that the County (1) maintain a good working relationship with Reliable Septic/M&D, (2) continue fair and firm code enforcement, (3) amend the Code to have a Fat, Oil and Grease (FOG) facility be a conditional use within a zoning category rather than a permitted use, and (5) work with Pinellas Park to repair the discharge meter.

In response to query by Commissioner Roche, Attorney Bennett, with input by Bob Howell and Charles Toney, Water and Sewer, confirmed that the outflow meter is on the Pinellas Park side; that the meter is clogged; that the City has been notified; that the County is unable to obtain a good representative sample to confirm self-reporting values; that it is an inline meter made to sample drinking water and not solid waste; and that there are no meters specifically made to accurately measure waste discharge, noting that waste charges are based on the consumption of potable water; whereupon, Commissioner Roche suggested that all other meters be checked.

In response to query by Chairman Welch as to the current status of the Consent Order, Senior Assistant County Attorney Jason Ester, representing the Air Quality Division,

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stated that there are six air quality fines at \$500.00 per day; that counsel for Reliable Septic/M&D marked up the Consent Order and advised that his client refuses to pay any fines or admit to any violations; that complaints alleging odor continue to be received and verified; that staff is not agreeable to the waiver of all the fines and the non-admission of the violation; and that the next step would be (1) for the Board to consent to filing a lawsuit for a variety of remedies or (2) for the normal Special Magistrate approach to be used. Attorney Bennett advised that a third option, and probably the lead one, would be to engage in a conversation with counsel for Reliable Septic/M&D to see how serious he is about the proposals; whereupon, Chairman Welch indicated that the County could not agree to the refusal to pay any fines or admit to any violations and if it has to litigate that, it will.

Discussion ensued regarding the NPDES violation, and in response to queries by Chairman Welch and Commissioner Roche, Department of Environment and Infrastructure Watershed Division Manager Kelli H. Levy indicated that during a site visit, discolored runoff was witnessed coming directly off the property into the stormwater management system; and that samples were delivered to the lab for analysis, noting a copy of the results was provided to the members.

In response to query by Commissioner Roche, Attorney Ester stated that Reliable Septic/M&D would like the County to agree that they do not produce any objectionable odor and, using the current system in place, will not produce any objectionable odor; whereupon, Attorney Bennett reiterated that Reliable Septic/M&D is essentially asking the County to become a guarantor of its system, and the County cannot.

Kevin Hennessy, attorney for Reliable Septic/M&D, confirmed that he is speaking for others in the audience, and stated that his client has worked diligently to solve the issues and refutes allegations of lack of cooperation and much of the information given to the Board by staff and other speakers about violations and problems. He indicated that for the past 40 years, Reliable Septic/M&D has been in the business of hauling septic and FOG waste, and described the process and provided background information.

Attorney Hennessy stated that he had promised the Board that the odor concerns would be addressed as quickly as possible, and Reliable Septic/M&D did that; and that the entire operation has been moved indoors, noting that the promised air scrubbers were installed shortly after the last Commission meeting; whereupon, he presented photographs depicting the facility in 2012 and at the present time, stating that current Google Earth photographs show no tanks or structures outside, as they have been removed; that the tanks inside are completely closed with one air filter on each tank; and



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that the air is being recycled. He referenced a survey taken by Reliable Septic/M&D wherein the neighbors say the odors have disappeared; and in response to query by the Chairman, indicated that copies of the survey are in the package he presented to the members.

Attorney Hennessy further related that in contrast to recent reports by County inspectors that there are strong odors offsite, his client has been testing the system with a meter that measures odors, and the meters show no odor; that he believes some County staff are misguided and pursuing inappropriate and outdated allegations, noting that the packet he provided the Board contains an example of a neighbor who continues to show photographs of the plant taken last year before Reliable Septic/M&D spent hundreds of thousands of dollars to correct the problem; that he is providing several letters of support from people saying they do not see a problem and believe his client is being singled out and inappropriately enforced against by Pinellas County; and that, therefore, his client refuses to sign the Consent Order.

Discussion ensued and in response to query by Commissioner Justice, Attorney Hennessy discussed the sampling points and why the Pinellas Park meter is now being used. He indicated that all reports have been filed, however, amendments to the reports have been requested; and that the City sampled the water and found no problem. In response to query by Commissioner Justice, Attorney Bennett stated that he is not familiar with the Pinellas Park sampling regime, but that the County did a report during a rain event that showed a runoff; whereupon, Attorney Hennessy suggested that an inconsistency exists, as the County report he has seen indicates the area was dry when the sample was taken.

In response to query by Commissioner Justice, Attorney Hennessy indicated that it seems County inspectors are being directed to take action to shut the building down and put his client out of business; that the County sought an injunction against Reliable Septic/M&D and did not receive it because the allegations were not proven; and that he is personally trying to avoid going back to court.

In response to query by Commissioner Roche, Attorney Hennessy stated that improvements to the system are being designed and built in conjunction with contractors, manufacturers of the product and their representatives, and an engineer retained by his client.

Mr. LaSala stated that he is concerned about allegations of staff misconduct and requested specific information; whereupon, Attorney Hennessy provided information about a visit to the site by Mike Thomas as an example.

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In response to the Chairman's call for persons wishing to be heard, Mike Albert, Pinellas Park, spoke in support of Reliable Septic/M&D. After lengthy discussion and in response to query by Chairman Welch, Mr. Albert indicated that he moved everything inside approximately a month prior to today's meeting, and discussed other steps taken to alleviate the odor problem.

In response to the Chairman's call for persons wishing to be heard, Ted Legakis, Pinellas Park, spoke in opposition to Reliable Septic/M&D and, in response to queries by the members, indicated that the objectionable odor started about two years ago; and that he doubts a solution can be found as the property is not large enough to accommodate a septic business.

In response to query by Chairman Welch as to the next steps to be taken, Attorney Bennett reiterated his earlier recommendations; whereupon, Administrator LaSala stated that his office will continue to coordinate with the County Attorney's Office and the applicant and his attorney, and will continue to enforce the code.

In response to query by Chairman Welch as to the number of odor complaints recently filed, Air Quality Manager Peter Hessling related that the number of complaints has decreased; that the fine for violating verified odors is \$500.00 per day; that a total of ten verified complaints have been received; and that the total amount of fines due to date is \$5,000.00; whereupon, Mr. Hennessy indicated that it is an assumption to say that there is an odor violation; that he does not believe the current complaints are supportable; that he believes a cooperative relationship works best when dealing with environmental concerns; and that his client would agree to apply \$3,000.00 of the fines to meters and some additional hardware; whereupon, Chairman Welch indicated that while he prefers not to litigate the issue in court, the position Reliable Septic/M&D is taking regarding the payment of the fines does not bode well.

Administrator LaSala advised Attorney Hennessy that the County wants the odor to go away and that Reliable Septic/M&D should do whatever it takes to make it go away.

Commissioner Justice stated that a question by Commissioner Roche as to whether the system was professionally designed or was makeshift has not been answered; whereupon, Attorney Hennessy reiterated that the odor elimination equipment was assembled by his client and his engineers and factory representatives.

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Attorney Bennett commented that the focus should not be exclusively on the odor problem as there are outstanding issues with pre-treatment permit compliance, provision of a sampling point, outstanding reports, NPDES stormwater compliance, and a forthcoming Consent Order to stop septic waste from coming into the County stormwater system; whereupon, Attorney Hennessey indicated that he would be pleased to sit down with Administrator LaSala and Attorney Bennett or their designees and deal with the issues.

Commissioner Latvala suggested that a review by a third party having no vested interest in the outcome of the dispute would be beneficial, and Commissioner Seel concurred, commenting that someone specializing in sewer plants would be preferable, as a Special Magistrate probably would not be qualified to make judgments on the technical, scientific merits of the case. In response to query by Attorney Bennett, Attorney Hennessey indicated that his client would be willing to sit down with a third party and would recommend individuals that could fulfill that role; whereupon, Chairman Welch indicated that time is of the essence.

- #22 Reappointments to the WorkNet Pinellas Board of Directors, as outlined in the agenda memorandum dated June 18, 2013, which has been filed and made a part of the record, approved.

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

23 County Commission Miscellaneous

- a. Commissioner Justice moved, seconded by Commissioner Latvala and carried, that Attorney Bennett and the Human Rights Office be directed to draft gender identity language for inclusion in the County's ordinance and to bring language options back to the Board.
- b. Commissioner Latvala reminded the Board that the Florida Association of Counties (FAC) meeting is next week in Tampa, noting that she will be making a presentation on Strategic Planning with John Streitmatter and Administrator LaSala on Thursday; and that commissioners and administrators from two other counties will participate.

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c. Commissioner Roche attended the presentation of the Great Floridian Award granted posthumously to General Norman Schwarzkopf and received by his wife at Central Command, MacDill Air Force Base, and was joined by Governor and Mrs. Scott.

attended the U.S. Coast Guard Sector St. Petersburg Change of Command Ceremony at The Mahaffey Theater, and was joined by staff from Senators Rubio and Nelson's offices; thanked the outgoing commander of Sector St. Petersburg for his services; and congratulated the incoming commander on his orders and welcomed him and his family to Pinellas County.

d. Chairman Welch suggested changing the order of the agenda to move Citizens to be Heard before County Commission Miscellaneous in order to improve the flow of the meeting; and requested the members' feedback at a future meeting.

\* \* \* \*

At this time, 5:24 P.M., the meeting was recessed and reconvened at 6:04 P.M. with all Commissioners in attendance with the exception of Commissioner Morroni.

\* \* \* \*

### **SCHEDULED PUBLIC HEARINGS**

**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 HEARINGS – BOARD OF COUNTY COMMISSIONERS**

#24 Resolution No. 13-56 adopted appropriating unanticipated fund balance in the Fiscal Year 2013 Sewer Construction Fund. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Long  
Second - Commissioner Latvala

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Commissioner Roche referred to his comments under Agenda Item No. 10, indicating that this item represents another \$2.7 million investment in the sewer/stormwater system.

Vote - 6 – 0

- #25a Resolution No. 13-57 adopted approving the application of La Mirage Beauty Salon, Inc. through Todd Pressman, Representative, for a change of zoning from P-1A, Limited Office and Professional, to P-1, General Professional Office (Upland – 3.3 acres), and P/C, Preservation/Conservation (Wetland – 1.7 acres), and an amended Development Agreement to allow a maximum of 14,690 square feet of development where 10,454 square feet is currently allowed (Z-4-2-13), re approximately 5.0 acres located on the south side of Tampa Road, 390 feet north of Calibre Downs Lane (street address: 3730 Tampa Road, Palm Harbor). Chairman authorized to sign the Development Agreement and the Clerk to record. The Local Planning Agency recommended approval of the application based on the staff report. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Long  
Second - Commissioner Seel

Responding to queries by Commissioner Roche, Planning Department Zoning Manager John F. Cueva related that the Preservation/Conservation zoning district did not exist at the time the original Development Agreement was approved; and that the proposed zoning will allow for a transfer of development rights to the upland portion; whereupon, referring to a site plan and map, he pointed out the wetland and upland areas, noting that the subject area was subdivided from an adjacent parcel; and that both parcels are under the same ownership.

Vote - 6 – 0

- #25b Resolution No. 13-58 adopted approving the application of Ed Fontaine through Phyllis Friedrich, Representative, for a change of zoning from P-1, General Professional Office, to C-2, General Retail Commercial and Limited Services, and Ordinance No. 13-13 adopted approving a change in land use designation from Residential/Office General to Commercial General (Z/LU-12-5-13), re approximately 0.86 acre located on the eastern side of 66th Street North, approximately 120 feet north of 51st Terrace North, in the unincorporated area of St. Petersburg (street address: 5201 66th Street North, St. Petersburg). The Local Planning Agency recommended approval of the application based on the staff report. No correspondence has been received. No citizens appeared to be heard.

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

#25c Resolution No. 13-59 adopted approving the application of Majestic Real Estate Investment, LLC, through George P. Stamas, Representative, for a change of zoning from R-3, Single Family Residential, to RPD-5, Residential Planned Development, 5.0 units per acre (Z-13-5-13), re approximately 2.58 acres located on the west side of U.S. Alternate Highway 19 on the north side of Harbor Ridge Drive, Palm Harbor. The Local Planning Agency (LPA) recommended approval of the application based on the staff report. Letters and phone calls on behalf of 30 persons in opposition have been received; and 20 letters and a petition with 107 signatures in opposition were received in connection with the LPA public hearing.

Planning Department Zoning Manager John F. Cueva displayed an aerial photograph and the zoning and land use map, identified the subject site, described the surrounding area, and provided an overview of the request, indicating that the application originally included a request for a 50-percent density bonus, which was a concern of the neighbors; that the property did not qualify for the bonus due to the floodplain designation in the area; and that the density bonus has been removed from the request.

Mr. Cueva stated that both the current and proposed zoning match the Land Use Plan; and that staff supports the RPD-5 zoning request as it provides an additional 15 feet of setback buffer and the ability to cluster units away from desirable vegetation. He noted that the applicant owns the property to the south and would be allowed to transfer development rights for three units to the subject site, for a total of 16 units; that plans are to access the site via the existing driveway to the south, eliminating the need for additional curb cuts on U.S. Alternate Highway 19; that development of the site under the current zoning would provide 13 residential lots and would involve clearing of the site and installing a 55-foot wide roadway; and that the traffic impact would be the same whether the subject site contains 13 or 16 units.

Responding to queries by Commissioners Latvala and Roche, Mr. Cueva stated that the transfer of development rights would be allowed only if the RPD-5 zoning is approved; that there will be no density bonus or affordable housing component; that there are no wetlands involved; and that the intent is to build townhomes on the site; whereupon, General Planning Manager Gordon R. Beardslee indicated that the traffic generation rate for multi-family housing is less than the single-family rate.

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Responding to the Chairman's call for the applicant, George P. Stamas indicated that he represents Pioneer Developers of America, developer of the Harbor Ridge townhome project to the south; whereupon, he briefly discussed the surrounding area, the Harbor Ridge project, and the proposed development, noting that the intent is to construct the same type of product, with two units per building. Responding to query by Commissioner Roche, Mr. Stamas indicated that the density bonus issue was addressed at the last public hearing; that the applicant has spoken with at least some of the neighbors; that he believes the item was re-noticed by the County; and that everyone should recognize that the request is no longer part of the application.

In response to the Chairman's call for persons wishing to be heard, the following individuals appeared and expressed their concerns pertaining to U.S. Highway Alternate 19 traffic; drainage; lack of a development agreement; the right of the developer to utilize the Harbor Ridge driveway, pool, and other amenities; lack of green space in Pinellas County; and the Commission's obligation to look out for the interests of the citizens.

Edwina Herndon, Palm Harbor  
Steven Goldberg, Palm Harbor  
Lisa Bobber Balogh  
Jonathan Damonte, Esq., Largo - *spoke on behalf of others in attendance*  
Debbie Cobb, Palm Harbor  
Jakub Cuomo, Tarpon Springs

Responding to query by Commissioner Latvala, Mr. Damonte related that it is the desire of the Harbor Ridge homeowners that the developer be required to submit a Development Agreement indicating what will actually be built on the property and whether it will be compatible with the Harbor Ridge development; that they wish to know how access will be provided, as the existing entrance road is platted as part of the Harbor Ridge development; and that they believe the developer should be required to negotiate in good faith with the Homeowners Association regarding use of the pool, cabana, and other amenities; whereupon, responding to query by Commissioner Justice, he confirmed his assertion that the new development would not be able to utilize the existing access road without permission by 100 percent of the Harbor Ridge residents.

Attorney Bennett indicated that the Board usually does not get involved with homeowners association issues, which are not relevant to the zoning consideration; that it does not require development agreements unless the underlying zoning proposal is not compatible with the surrounding area; and that it appears the Harbor Ridge Homeowners Association has a significant level of leverage in terms of its ability to negotiate with the developer.

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Mr. Cueva indicated that staff was not aware of the Homeowners Association issue while preparing its report; however, the recommendation would still be for approval of the RPD-5 zoning district for the reasons previously stated; and that if access via the existing entry is not granted, the developer would need to apply for a Florida Department of Transportation (FDOT) permit and meet its standards in order to develop the property; whereupon, responding to queries by Chairman Welch, he indicated that staff had not seen a need for a Development Agreement; that a deceleration lane would likely be required, which would affect the site layout and may force the buildings closer to the adjacent residential property; and that development of single-family lots with a road under the current zoning would also move the buildings closer to the perimeter of the property.

In closing and alluding to comments by the objectors, Mr. Stamas clarified that Harbor Ridge consists of four-unit and two-unit buildings, and the proposed development will consist of two-unit, or duplex, buildings of the same building type and character; that the applicant will be happy to continue discussions with Harbor Ridge homeowners in hopes of reaching common ground; and that today's meeting is not the appropriate venue for discussing Homeowners Association documents and legal matters; whereupon, Commissioner Latvala advised him that it is imperative he talk with the residents of Baywood Village and Harbor Ridge prior to commencing development, noting that there is a lot of misinformation in the community.

Thereupon, Commissioner Latvala referred to comments by one of the objectors, and stated for the record that although 96 percent of the developable land in the county has been built out, Pinellas County and Pinellas cities have preserved nearly 25 percent of the total land mass as parks and preservation land, providing an abundance of green space, particularly in the area of the subject property; that the number of residents in Pinellas County is 940,000 not 990,000; and that access to Baywood Village is mitigated by the traffic light at Klosterman Road. Indicating that traffic, water, and sewer issues will be addressed before any permit is issued, she moved, seconded by Commissioner Seel, that the application be approved.

Commissioner Roche indicated that he shares the concerns of the objectors regarding traffic, and citing a recent zoning case in East Lake, stated that he cannot in good conscience support the request knowing that the egress/ingress and other issues have not been addressed; that the Board should take a stand and "fix the process"; and that he senses an olive branch has been offered in terms of the developer's willingness to work with the homeowners; whereupon, he offered a substitute motion, requesting that the



application be denied without prejudice with a requirement that the applicant work with the homeowners and settle the issues in a Development Agreement before the case comes back before the Board. Mr. Cueva clarified that a Development Agreement would be between the County and the developer, not the developer and homeowners.

During continued discussion and responding to query by Commissioner Latvala, Attorney Bennett confirmed her understanding that a Development Agreement is not appropriate in a zoning case unless there are unusual circumstances. He stated that staff has indicated that the proposed zoning is appropriate; and reiterated that the homeowners appear to have a significant amount of leverage with the developer, and the Board need not get involved. Responding to further queries by Commissioners Latvala and Long, Attorney Bennett confirmed that the developer will need to demonstrate a right to ingress and egress in order to obtain permits from the County.

Thereupon, Chairman Welch stated that Commissioner Roche's substitute motion died for lack of a second, and called for the vote, noting that the original motion for approval was still on the floor.

Vote - 5 – 1 (Commissioner Roche dissenting)

- #26a Ordinance No. 13-14, Master Surface Water Utility Ordinance, adopted establishing a procedural process to implement a Surface Water Utility in the unincorporated area of Pinellas County. Three letters in opposition to the proposed ordinance have been received. (Companion to Regular Agenda Item No. 26b.)

Referring to a PowerPoint Presentation titled *Surface Water Utility Fee*, a copy of which has been filed and made a part of the record, Department of Environment and Infrastructure Watershed Division Manager Kelli H. Levy provided an overview of the Surface Water Management Program, which was discussed in detail at the April 30, 2013 Board of County Commissioners work session.

Noting that the program is for the unincorporated areas of the County, Ms. Levy indicated that Surface Water Management Program costs currently total \$21.4 million annually, broken down in the areas of Program Management, National Pollutant Discharge Elimination System (NPDES) Operations and Maintenance, NPDES Permit Compliance, and Capital Improvements; and that the funding sources are the General Fund, Transportation Trust Fund, and the Penny for Pinellas; whereupon, she provided information regarding the current Level of Service (LOS), noting that the overall rating is LOS "C"; and reviewed the proposed strategy and program costs in the amount of \$27.5 million annually.

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Attorney Bennett called attention to the following key issues associated with the proposed ordinance, noting that the majority of its provisions are procedural:

- It is a Home Rule Ordinance, and recognizes that the Board is operating under its own established authority through the Charter, as granted by the State Constitution.
- It makes a legislative determination that properties benefit from improved drainage systems and water quality.
- It ties the level of burden to the benefits by assessing utility fees based on the impervious surface area of each and every parcel in the unincorporated area.
- It distinguishes between Service Assessments for operation and maintenance activities and Improvement Assessments for capital expenditures, and requires the maintenance of separate and distinct funds for accountability purposes.

Ms. Levy responded to comments and queries by the members, as follows, and Mr. LaSala and Attorney Bennett provided input.

- A \$2 million allocation for water quality capital discussed at the April 30 work session has been removed from the program, based on the legal requirement of assessing fees to the benefit areas.
- A December 2010 pipeline break involved a drinking water main; the corrugated metal pipes proposed for replacement are for stormwater drainage, were installed prior to 1976, and have a life cycle of less than 50 years. Their failure usually results in collapsed roadways or sinkholes.
- Activities of the type proposed in the Surface Water Management Program have historically been funded by the General Fund, Transportation Trust Fund, and the Penny for Pinellas, as they are today.
- The state's water quality criteria differs from that proposed by the Environmental Protection Agency in that it recognizes the uniqueness of Florida's natural resources and uses biological assessments to determine whether biological health is being achieved. The proposed Surface Water Management Program includes a biological assessment program.
- The University of Central Florida is conducting a tri-county study that will evaluate the quality of water runoff and help determine a baseline for gauging the effectiveness of the counties' fertilizer ordinances.
- The Adopt-a-Pond program included in the proposal differs from the original Pinellas County program and is modeled after the Hillsborough County program which provides better coordination among environmental management and operational staff.

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- It is possible that funding could be provided for neighborhood/private pond maintenance; however, criteria must be developed to determine the benefit of local drainage and improved water quality to the greater good.
- The type of work proposed under the program will address problem areas such as those witnessed by the Board during its November 2011 Surface Water Tour.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and stated their concerns:

Joe Paige, Clearwater

Marg Baker, Palm Harbor

Deb Caso, Palm Harbor - *spoke on behalf of others in attendance*

David Ballard Geddis, Jr., Palm Harbor - *submitted document*

Chairman Welch read a letter dated June 6, 2013 from Commissioner John Morroni stating his feelings with regard to the proposed ordinance; whereupon, he submitted the letter to the Clerk, which has been filed and made a part of the record.

Chairman Welch stated that he is very supportive of the proposed ordinance; that he believes there must be a compelling reason to raise taxes and fees; and that such compelling reasons are set forth in the agenda backup materials; whereupon, he reiterated Commissioner Morroni's statement that 15 Pinellas County cities have already implemented similar fees. Referring to Section 5.06 of the proposed ordinance, Chairman Welch inquired as to exemptions and hardship programs, and Attorney Bennett indicated the following:

- The ordinance is very broad and does not provide for any exemptions or hardship programs, but only grants the Board authority to develop such provisions at some future date.
- A hardship program would not the waive the fees; they would be paid by the government, rather than the property owner.
- The law of assessment requires an analysis to determine benefitting properties and that they pay all or a portion of the associated capital costs. The ordinance provides flexibility in how the assessment will be carried out.
- Because the corrugated metal pipe is everywhere throughout the unincorporated area, everyone will benefit from their repair and replacement, so there is no need to define specific benefit areas for the project.

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Commissioner Roche inquired as to the members' interest in considering the alternative approach he presented subsequent to the April 30 work session, noting that the proposal would not create any new or increased tax; that it would assign \$12 million of Penny for Pinellas funds for capital projects; that operations and maintenance would be funded through departmental budgets; that he would support creation of a consolidated countywide system; that 13 of the 15 cities with existing programs are willing to discuss the concept; and that the County has already invested over \$100 million in surface water management in the unincorporated and incorporated areas; whereupon, Chairman Welch indicated that no members have expressed an interest in pursuing the proposal.

Commissioner Long responded to comments by Commissioner Roche, indicating that many of the cities do not have faith that the County Commission is poised to take care of the stormwater management issue, although it is authorized to do so by the County Charter; and that they have acted on their own to impose a tax on their citizens for that purpose; whereupon, she inquired as to the source of the proposed \$12 million in capital, noting that Penny for Pinellas funds have already been allocated to projects. During additional comments by Commissioner Roche, he proposed a reprioritization of Penny for Pinellas Capital Improvement Program (CIP) projects to address urgent stormwater issues; and Administrator LaSala related that the CIP prioritization occurred at a recent workshop; however, the Board will have another chance to consider the CIP during discussion of the proposed Fiscal Year 2014 budget.

Thereupon, Commissioner Seel moved, seconded by Commissioner Latvala and carried, that the Master Surface Water Utility Ordinance be approved.

Vote - 5 – 1 (Commissioner Roche dissenting)

- #26b Resolution No. 13-60, Initial Surface Water Rate Resolution, adopted beginning the implementation process for a Surface Water Service Assessment. Document titled *Updated Surface Water Governance Study*, dated June 2013 and prepared by CDM Smith, Inc., is incorporated and adopted in Section 103(C) of the resolution. (Companion to Public Hearing Agenda Item No. 26a.)

Continuing the PowerPoint Presentation titled *Surface Water Utility Fee* referred to in Agenda Item No. 26a, Department of Environment and Infrastructure Watershed Division Manager Kelli H. Levy discussed the Funding Assessment and Rate Structure Analysis as detailed in the Governance Study report and discussed at the April 30, 2013 Board of County Commissioners work session.

Ms. Levy related that the basis for calculating the proposed stormwater fee is an Equivalent Residential Unit (ERU), which is 2,339 square feet, the median impervious area for a single family detached home in the unincorporated County; and that a tiered rate structure is proposed, as follows:

- Single family detached homes and individual mobile homes:

Small (200 - 1,576 square feet)	0.6 ERU
Medium (1,576 - 4,368 square feet)	1.0 ERU
Large (4,368 - 9,999 square feet)	2.3 ERUs
Extra Large (>10,000 square feet)	Total Impervious Area/2,339 square feet = ERUs assessed
- Condos, multi-family dwellings:

Total impervious area calculated, allocated to all units in complex
- Non-residential rates:

Total impervious area based on readily available data  
(method used by 83 percent of Surface Water Utilities in Florida for non-residential properties)

Ms. Levy related that 90 percent of the homes in Pinellas County fall in the Small to Medium category (not 80 percent as shown on the slide); and indicated that the rate to support the proposed Surface Water Management Program is \$9.60 per month per ERU, which would generate approximately \$17.9 million per year to be allocated to Program Management, National Pollutant Discharge Elimination System (NPDES) Compliance, and NPDES Operations and Maintenance. She pointed out that the rate structure applies to all properties within the unincorporated area; and that the fee does not provide funding for the Water Quality Capital Improvement Program.

Ms. Levy referred to a chart titled *Funding Analysis, Alternative Rates*, and discussed various program options and associated costs, noting that the proposed Surface Water Management Program rate is \$9.60 per ERU per month, which would likely result in an overall Level of Service (LOS) of “C+” to “B-”; and that the rate necessary to achieve a LOS “B” would be \$10.30 per month per ERU; whereupon, Attorney Bennett related that the funding need for the proposed Management Program shown in the Agenda backup documentation has been updated to reflect the amount of \$17,885,623.00; and that the resolution and attachment will be modified accordingly; and Ms. Levy noted that the monthly cost per ERU has not changed.

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Attorney Bennett related that development of the Initial Surface Water Rate Resolution has been a team effort; whereupon, he introduced Heather Encinosa, Nabors Giblin & Nickerson, who provided a brief overview of the resolution, indicating that the document utilizes the program described by Ms. Levy and procedures set forth in Ordinance No. 13-14, adopted under Item No. 26a, to accomplish the first step towards implementation of a surface water assessment/fee for the unincorporated areas of Pinellas County. Referring to Article IV of the resolution, Ms. Encinosa related that approval of the document at tonight's meeting will set a maximum rate at which the Board could impose the fee; that notice of the proposed rates will be included in the Truth in Millage (TRIM) notice mailed to every property owner in August; that there is a 20-day requirement for publishing notice of the final public hearing; and that the Board will make a final decision on the adoption of a rate for the County's Surface Water Service Assessment at a public hearing scheduled for September 10, 2013 at 6:00 P.M.

Ms. Encinosa, Attorney Bennett, and Ms. Levy responded to queries by the members, indicating the following:

- The fee applies to the unincorporated area only; cities that do not currently impose a fee are not affected; and all the work done under the program will be in the unincorporated area of the county.
- Some governmental entities and most sovereign entities such as the County, School Board, special districts, and the federal government are immune from the fee; 125 government properties are included in the revenue projection in the amount of \$666,536. The governmental property owners may choose to pay the county fee, but traditionally they do not, and they do not pay city fees. The law is in the process of evolving.
- Plans are to implement a program that will allow property owners that have a functioning stormwater system a credit of up to 75 percent of the fee.
- The funding analysis will need to be adjusted to reduce projected revenue for government properties, Property Appraiser and Tax Collector fees (two percent each), stormwater system credits, and non-collection.

Reiterating earlier statements that water knows no boundaries, Commissioner Roche indicated that all cities and property owners will benefit from the stormwater projects, including those that do not pay a fee; whereupon, Commissioner Latvala reminded him that the Board had discussed the matter of a countywide fee; that the members decided

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not to pursue the matter at this time because the County has not made needed improvements in the unincorporated area; that the County already partners with cities on stormwater projects; and that the Board will pursue a countywide program when the timing is right.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and stated their concerns:

David Ballard Geddis, Jr., Palm Harbor

Tony Caso, Palm Harbor - *spoke on behalf of others in attendance*

Joe Paige, Clearwater

Natasha Telfair, St. Petersburg

Responding to query by Ms. Telfair, Attorney Bennett indicated that the Surface Water Management Program will be adjusted to bring projected costs in line with estimated income, taking into consideration any exemptions, costs, or credits; and that the amount adopted today will be published in the TRIM notice and will remain the ceiling until such time as the process is repeated.

Chairman Welch expressed concern regarding the proposed ERU rate, indicating that the rate is high in comparison to St. Petersburg and some other cities; whereupon, Ms. Levy noted that St. Petersburg's fee has been in place for a long time; that she is not aware of the challenges that exist; and that City staff had indicated that the fee is not sustainable and must be augmented by other revenue sources.

Chairman Welch disputed comments by the objectors pertaining to liberalism, fascism, and "Agenda 21" and stated for the record that the issue pertains to basic infrastructure for an urban county; that the County is addressing local drainage needs and provisions of the Clean Water Act; and that the program will allow it to catch up with what is being done by the 15 cities prior to initiating discussions about a countywide program.

Commissioner Seel moved that the Initial Surface Water Rate Resolution be adopted; whereupon, she noted that, in many cases, developers were required to build stormwater ponds on their property. Responding to her queries, Attorney Bennett related that the property owners would be entitled to a credit or reduced fee; and Ms. Levy indicated that \$3 million has been allocated to Program Management, which would include additional staffing to administer the program; and briefly discussed the credit, noting that the property owners would still be required to pay a portion of the fee and would receive credit for the benefit they are providing to lessen the burden on the County's system.

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Noting that she supports the program and understands the legal restrictions pertaining to assessments, Commissioner Seel stated her disappointment that it is not possible to include a capital component in the fee structure to truly transform the County's drainage system, relating that the City of Clearwater had implemented a stormwater fee along with a specific list of capital projects that would be built and maintained with the revenue.

In response to query by Chairman Welch, Commissioner Seel confirmed that her motion was to approve the resolution specifying a rate of \$9.60 per month per ERU; and Commissioner Long seconded the motion. Following brief discussion and upon call for the vote, the motion carried by a vote of 5 to 1, with Commissioner Roche dissenting.

Attorney Bennett called attention to Section 2.02(A) of the draft resolution, noting that the estimated Surface Water Service Cost for the fiscal year should be revised to read \$17,885,623; and that the same figure should be reflected in Appendix C, Page C-1 of the resolution.

Administrator LaSala indicated that the fee threshold has now been set and the program costs will be incorporated as part of the proposed Fiscal Year 2014 budget; whereupon, Mr. Bennett noted that there may be a need to adjust the fee on an annual basis depending on the cost to do the work; that the Consumer Price Index is the traditional way of accounting for cost fluctuations; and that the matter will be discussed in further detail at the September 10 public hearing.

At the request of Chairman Welch, Commissioner Seel restated her motion, specifying a rate of \$9.60 per month per Equivalent Residential Unit and estimated program funding in the amount of \$17,885,623, as indicated by Attorney Bennett.

Motion	-	Commissioner Seel
Second	-	Commissioner Long
Vote	-	5 – 1 (Commissioner Roche dissenting)

#27 Meeting adjourned at 8:50 P.M.

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Chairman

ATTEST: KEN BURKE, CLERK

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