

MEETING OPENED

The Board of County Commissioners met in Commission Chambers on the First Floor, Orange County Administration Center, on Tuesday, June 17, 1997. The following were present:

- County Chairman Linda Chapin
- Commissioners Tom Staley, Ted Edwards, and Mable Butler
- County Comptroller as Clerk Martha Haynie
- County Administrator Jean Bennett
- County Attorney Tom Wilkes
- Deputy Clerk Rosilyn Stapleton

Commissioner Clarence Hoenstine was absent.

Commissioners Bob Freeman and Mary Johnson joined the meeting where indicated.

There being a quorum, the County Chairman called the meeting to order at 9 a.m.

FISCAL AND HUMAN RESOURCES DIVISION - DISCUSSION AGENDA

1. Selection of one firm and two ranked alternates to provide design services for Phases II and IIA, modifications to meet Americans with Disabilities Act (ADA) Public Accommodations Compliance requirements at the Convention Center, RFP Y7-819-MK ([Convention Center Construction Department] Purchasing and Contracts Department).

Commissioner's Report

Commissioner Staley stated that he was present at the June 2, 1997, Procurement Review Committee meeting and reviewed the committee's recommendation on the selection of one firm and two ranked alternates for design services for Phases II and IIA modifications to meet the Americans with Disabilities Act public accommodations compliance requirements from the following firms listed alphabetically:

- Borrelli & Associates Architects/Planners, P.A.
- Moody Nolan & Associates, Ltd., Inc.
- Ray Johnson & Associates

Discussion

The Board discussed the County's equal employment opportunity goals and the upcoming worksession to discuss issues relating to minority contracts.

Motion

Upon a motion by Commissioner Staley, seconded by Commissioner Edwards, and carried with County Chairman Chapin and Commissioners Staley and Edwards voting AYE by voice vote; Commissioner Butler voting NO by voice vote; Commissioners Freeman, Johnson, and Hoenstine were absent; the Board approved the following short list ranked as follows:

- #1 Borrelli & Associates Architects/Planners, P.A.
- #2 Moody Nolan & Associates, Ltd., Inc.
- #3 Ray Johnson & Associates, P.A.

and further, authorized staff to enter into contract negotiations for design services for Phases II and IIA modifications to meet the Americans with Disabilities Act public accommodations compliance requirements, RFP Y7-819-MK.

Commissioners Freeman and Johnson joined the meeting.

NONAGENDA - INTRODUCTION OF VISITORS

Commissioner Johnson introduced Carlos Amat, director of promotion, and Angel Sola, the general director of tourism, for the Province of Navarre, Spain.

HEALTH AND COMMUNITY SERVICES DIVISION - DISCUSSION AGENDA

1. Update of the County's Welfare Reform and Overview on Orange County's Welfare to Work Model (Division Office).

Staff Report

Human Services Department Manager Tom Weinberg stated the purpose of the discussion is to introduce the County's Welfare to Work model. Mr. Weinberg discussed the shift in policy regarding federal and state welfare programs and noted the decrease in the state and county welfare caseload since July 1996. He explained the mission, goals, and guiding principles of the County's model. Further, Mr. Weinberg listed the agencies which will partner with the County on the model.

Human Resources Department Manager Nancy Tallent explained the employment opportunity component of the model. Ms. Tallent discussed some of the barriers former welfare recipients will face in obtaining employment and how the model addresses those barriers.

Acting Chief of Purchasing and Contracts Johnny Richardson discussed the contract incentives included in the model. Mr. Richardson explained the bonus point system for companies that hire former welfare recipients. He added that a clause will be included in human service contracts will encourage agencies to make a good faith effort to hire former welfare recipients.

In summary, Mr. Weinberg explained the 24-month timeline for the County to have its welfare reform program in place.

Discussion

The Board discussed the timeline for welfare reform, the bonus point system, State program incentives for companies that employ former welfare recipients, and entitlement programs that are currently in place. Further, the Board discussed the County resources expended to create the model and directed staff to provide updates on its progress.

PLANNING AND DEVELOPMENT DIVISION - DISCUSSION AGENDA

1. Board direction to representatives on the East Central Florida Regional Planning Council, all districts (Division Office).

Staff Report

Planning and Development Division Director Bruce McClendon outlined the items to be addressed at the East Central Florida Regional Planning Council (ECFRPC) on June 18, 1997. Mr. McClendon presented an overview of proposed ECFRPC budget increase and outlined the staff recommendation as follows:

- a. support only a continuation budget;
- b. oppose proposed new assessments for an Overall Economic Development Plan and acceleration of the Strategic Regional Plan;
- c. do not support assessing counties for the population residing in cities that have membership in the Regional Planning Council;
- d. appoint a Board member to the East Central Florida Regional Planning Council.

Appearances

The following person addressed the Board:

- Aaron Dowling, executive director of the East Central Florida Regional Planning Council (no address given).

Discussion

The Board discussed the ECFRPC's bureaucracy, duplication of services provided by ECFRPC and other agencies, the successes and failures of regional growth management, and legislation for opting out of the ECFRPC.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board appointed Commissioner Edwards to the East Central Florida Regional Planning Council.

Action

The Board deferred a motion by Commissioner Edwards, seconded by Commissioner Butler, to direct the County's East Central Florida Regional Planning Council (ECFRPC) representatives to support a \$.25 per capita assessment minus residents of municipalities, oppose the proposed new assessments for an Overall Economic Development Plan and the acceleration of the Strategic Regional Plan, express the Board's position that Counties should not be assessed for the population residing in cities that have membership in the ECFRPC, until later in the day (see page 361).

PUBLIC WORKS DIVISION - DISCUSSION AGENDA

1. Board approval and execution by the County Chairman of a joint agreement between Orange County and QAPA Investing Corporation, N.V., for the Phillips Pond Outfall System, District 1 (Development Engineering Department).

Commissioner's Report

Commissioner Edwards announced a conflict of interest and left the meeting.

Staff Report

Deputy Public Works Division Director Bill Baxter explained the location of Phillips Pond and the benefits of the proposed outfall system. Mr. Baxter reviewed the provisions of the agreement.

Discussion

The Board discussed the benefits the outfall system will provide to the surrounding community.

Commissioner Johnson left the meeting.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioners Johnson, Hoenstine, and Edwards were absent; the Board approved the Joint Agreement for Construction of Public Improvements for Phillips Ponds Outfall System with QAPA Investing Corporation.

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

(Commissioner Edwards' Memorandum of Voting Conflict is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Commissioners Johnson and Edwards joined the meeting.

COUNTY CONSENT AGENDA

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board:

- deferred Fiscal and Human Resources Division Item 1 for discussion (see page 358 for subsequent approval);
- corrected Public Works Division Item 4 to read "District 2";
- deferred Public Works Division Item 5 for discussion (see page 360 for subsequent approval);

and further, approved the balance of the County Consent Agenda items as follows:

County Comptroller

- 1. Approval to pay Clerk of Courts' invoices in the total amount of \$358,822.94 for services rendered during the month of May 1997 (Administrative/Fiscal Division).
- 2. Approval to dispose of tangible personal property as follows:
 - a. Dispose of assets by scrapping;
 - b. Trade in assets for value towards new equipment;
 - c. Return assets to vendor under a maintenance agreement;
 - d. Cannibalize assets for usable parts;
 - e. Sell assets through sealed bid;
 - f. In lieu of selling office equipment at fair market value, donation of assets valued at approximately \$22 to the Oviedo Citizens in Action, Inc.;

(Property Accounting Department).

- 3. Approval of the minutes of the June 3, 1997, meeting of the Board of County Commissioners (Comptroller Clerk of the Board of County Commissioners).
- 4. Acknowledge "File for the Record" documents received in the Office of the Comptroller Clerk of the Board of County Commissioners as follows:
 - a. Public Official Bond and Oath of Office for Daniel J. Petro, member of the West Orange Healthcare District Board of Trustees; dated May 20, 1997.
 - b. Florida Public Service Commission notice of hearing and prehearing re: Dade County Circuit Court referral of certain issues in Case No. 94-14234-CA-22 (S.H. Dohan & Company, P.A., vs. Transcall America, Inc., dba ATC Long Distance) that are within the Commission's jurisdiction; dated May 22, 1997.

(Comptroller Clerk of the Board of County Commissioners).

- 5. Authorize the disbursement of warrants, vouchers, and wire transfers, having been certified that same had not been drawn on overexpended accounts, as follows:
 - Period from June 3, 1997, to June 10, 1997; total of 18,164,795.34.
 - Period from June 11, 1997, to June 16, 1997, total of \$6,142,955.04.

(Finance and Accounting Department).

Administrative Support Division

- 1. Approval and execution by County Chairman of distribution

easement and authorization to record instrument: Collision Avoidance Training School, Distribution Easement, District 2 (Real Estate Management Department).

2. Approval of purchase price above appraised value and authorization to disburse warrants, record instruments, and pay appropriate recording fees: Lake Olivia Outfall Pipe (Hemple Avenue to Lake Olivia), Drainage Easement and Subordination of Encumbrance, Parcel 802, District 1 (Real Estate Management Department).
3. Approval and authorization to disburse warrants, record instrument, and pay appropriate recording fees: 13th Street extension South Apopka, Deed, Parcel 102, District 2 (Real Estate Management Department).
4. Approval and execution by County Chairman of fourth amendment to lease agreement between A.C. Kavli Living Trust and Orange County: To provide continued occupancy of parking lot located at 650 North Orange Avenue, Fourth Amendment to Lease, District 3 (Real Estate Management Department).

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Fiscal and Human Resource Division

1. Approval to award Invitation for Bid Y7-163-SS to the low responsive and responsible bidder, P&L Lawn Maintenance, Inc., for landscape maintenance for OrangeScape Projects. The total cost is \$550,000 ([Roads and Drainage Department] Purchasing and Contracts Department).

(As stated in the above motion, this item was deferred for discussion; see page 358 for subsequent approval.)

2. Approval to award Invitation for Bid Y7-756-BI to the low responsive and responsible bidder, B&S Diversified, Inc., for Orange County Fire Station 65 UCF, Phase I construction. The total cost is \$173,525 ([Construction Administration Department] Purchasing and Contracts Department).
3. Approval to provide prior authority to award Invitation for Bid Y7-761-BI, Orange County Fire Station 28 site improvements, to the low responsive and responsible bidder, for the relocation of an existing modular fire station building, construction of a metal apparatus bay structure, and related site improvements. The total budget is \$156,000 ([Construction Administration Department] Purchasing and Contracts Department).
4. Approval to award Invitation For Bid Y7-748-BI to the low responsive and responsible bidder, Siebe Environmental Controls, for Orange County Agriculture Center HVAC renovations. The total cost is \$249,900 ([Facilities Management Department] Purchasing and Contracts Department).
5. Approval of payment of intergovernmental claims for May 29, 1997, totaling \$429,262.74 (Risk Management Department).

6. Receipt and filing of the May 22, 1997, minutes of the Intergovernmental Risk Management Committee meeting (Risk Management Department).
7. Approval and execution of revised Commercial Paper Resolutions and project lists for the purchase of additional software licensing, technical support and continuation of support for existing products from the Oracle Corporation (Division Office).

(Resolutions 97-M-23 and 97-M-24 are on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Planning and Development Division

1. Approval and execution of the Road Impact Fee Agreement for an Alternative Traffic Study between Rubens Taddei (for Texaco Xpress Lube) and Orange County, District 6 (Building Department).

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

2. Approval and execution of the Second Amendment to the Developer's Agreement between Liquor World, Inc., and Orange County to extend the deadline for expiration of the construction plans and the Vested Rights Certificate to August 13, 1998, District 1 (Planning Department).

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

3. Approval and execution of the Restated Interlocal Agreement for Joint Planning Area between Orange County and the City of Winter Garden, District 1 (Planning Department).

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Public Works Division

1. Approval to reduce the speed limit on Magnolia Homes Road between Edgewater Drive and Oranole Road from 45 to 40 miles per hour, District 2 (Traffic Engineering Department).
2. Approval and execution of the Interlocal Agreement between Orange County and the City of Winter Garden for the extension of the Beulah Road waterline connection, District 1 (Roads and Drainage Department).

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

3. Approval of agreements between Orange County and WAGG Properties, Inc., for drainage easement and reimbursement of clean-up costs, District 4 (Roads and Drainage Department).

(Agreements are on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

4. Approval and execution by the County Chairman of a cost-sharing agreement between Orange County and the St. Johns River Water Management District for design of the Park Avenue (Apopka) stormwater pond retrofit, District 2 (Stormwater Management Department).

(As stated in the above motion, the district number was corrected on this item.)

(Agreement is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

5. Approval to discontinue the one-way traffic trial condition on Lakeside Drive bridge in Merritt Park, remove all traffic control signs regulating the one-way operation, and return the bridge to the original pretrial, two-way traffic condition, Districts 3 and 5 (Traffic Engineering Department).

(As stated in the above motion, this item was deferred for discussion; see page 359.)

6. Approval of:

- temporary installation of three-way "Stop" signs on Cascade Road at Anthony Lane;
- installation of four-way "Stop" signs on Anthony Lane at Killian Drive;
- relocation of "Stop" signs on Anthony Lane at Powell Drive to Powell Drive at Anthony Lane;
- relocation of "Stop" signs on Anthony Lane at Yount Drive to Yount Drive at Anthony Lane;
- installation of "No Parking" signs on Killian Drive between Anthony Lane and Spoonbill Avenue;
- installation of "No Parking" signs on Anthony Lane between Cascade Road and Sun Vista Way;

Districts 3 and 4 (Traffic Engineering Department).

Utilities Division

1. Approval and execution by the County Chairman of Part I of the Florida Department of Environmental Protection Recycling and Education Grant Application, all districts (Division Office).
2. Approval and execution by the County Chairman of the Florida Department of Environmental Protection Litter Control and Prevention Grant Application, all districts (Division Office).

COUNTY CONSENT AGENDA ITEMS - DEFERRED FOR DISCUSSION

Fiscal and Human Resources Division

1. Approval to award Invitation for Bid Y7-163-SS to the low responsive and responsible bidder, P&L Lawn Maintenance, Inc., for landscape maintenance for OrangeScape Projects. The total cost is \$550,000 ([Roads and Drainage Department] Purchasing and Contracts Department).

Discussion

Commissioner Edwards stated these funds should be set aside for higher priority items and questioned whether the maintenance costs of the OrangeScape projects could be lowered.

County Chairman Chapin proposed that the Board hold a worksession on OrangeScape projects during the budget public hearings.

Public Works Division Director Ajit Lalchandani explained the termination provisions of the contract.

The Board discussed the advantages of the OrangeScape program and the termination provisions of the contract.

Motion

Upon a motion by Commissioner Butler, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board awarded Invitation for Bid Y7-163-SS to the

low responsive and responsible bidder, P&L Lawn Maintenance, Inc., for landscape maintenance for OrangeScape projects for a total cost of \$550,000.

Public Works Division

5. Approval to discontinue the one-way traffic trial condition on Lakeside Drive bridge in Merritt Park, remove all traffic control signs regulating the one-way operation, and return the bridge to the original pretrial, two-way traffic condition, Districts 3 and 5 (Traffic Engineering Department).

Staff Report

Public Works Division Director Ajit Lalchandani explained that staff is working on resolving the issue of signage placement on both sides of the bridge. Mr. Lalchandani stated he would report to the Board later in the day (see page 360).

County Chairman Chapin adjourned the morning session.

MEETING RECONVENED

The Board of County Commissioners reconvened in Commission Chambers on the First Floor, Orange County Administration Center. The following were present:

- County Chairman Linda Chapin
- Commissioners Bob Freeman, Tom Staley, Mary Johnson, Ted Edwards, and Mable Butler
- Deputy County Administrator Howard Tipton
- County Attorney Tom Wilkes
- Chief Deputy Comptroller as Clerk Jim Moye
- Deputy Clerk Rosilyn Stapleton

Commissioner Clarence Hoenstine was absent.

The Board paused for an invocation by Father Ralston Nemhart, of Saint John the Baptist Presbyterian Church, followed by the Pledge of Allegiance to the Flag.

JUNE 5, 1997, BOARD OF ZONING ADJUSTMENT RECOMMENDATIONS

Staff Report

Zoning Department Manager Melvin Pittman noted a revision: the district number for Item 6 should read District 6, not District 1.

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Staley, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board accepted the recommendations of the Orange County Board of

Zoning Adjustment under date of June 5, 1997, subject to the usual right of appeal by any aggrieved parties.

For the record, appeals of the recommendations of the Orange County Board of Zoning Adjustment under date of June 5, 1997, were filed in the Zoning Department and scheduled by the Comptroller Clerk's Office for public hearing, as follows:

- Appellant: David W. Roseman; Applicant: Jerry and Virginia Kelly, Item 7; public hearing date: July 15, 1997.

COUNTY CONSENT AGENDA ITEM - DEFERRED FOR DISCUSSION (CONTINUED)

Public Works Division

5. Approval to discontinue the one-way traffic trial condition on Lakeside Drive bridge in Merritt Park, remove all traffic control signs regulating the one-way operation, and return the bridge to the original pretrial, two-way traffic condition, Districts 3 and 5 (Traffic Engineering Department).

Staff Report

Deputy Public Division Director Bill Baxter requested Board authorization to install a "Narrow Bridge" sign and a "Yield" sign on each side of the bridge and to remove the existing signage.

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Edwards, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved discontinuing the one-way traffic trial condition on Lakeside Drive Bridge in Merritt Park and returning the bridge to the original pretrial two-way traffic condition; and further, authorized installing a "Narrow Bridge" and "Yield" signs on each side of the bridge and removing the existing signage.

PLANNING AND DEVELOPMENT DIVISION - DISCUSSION AGENDA (CONTINUED)

1. Board direction to representatives on the East Central Florida Regional Planning Council, all districts (Division Office).

Staff Report

Planning and Development Division Director Bruce McClendon presented the staff recommendation for direction to the County's East Central Florida Regional Planning Council representatives.

The Board clarified its previous motion as follows:

Motion

Upon a motion by Commissioner Edwards, seconded by Commissioner Butler, and carried with County Chairman Chapin and Commissioners Staley, Johnson, Edwards, and Butler voting AYE by voice vote; Commissioner Freeman voting NO

by voice vote; Commissioner Hoenstine was absent; the Board directed the County's East Central Florida Regional Planning Council (ECFRPC) representatives as follows:

- support a funding level not to exceed 25 cents per capita for Orange County's population, excluding the population from member cities, plus an additional three percent increase due to inflation and to incorporate as an alternative the authority to vote for what may be perceived to be a "continuation budget" as recommended by County staff;
- oppose the proposed new assessments for an Overall Economic Development Plan and the acceleration of the Strategic Regional Plan;
- express the Board's position that Counties should not be assessed for the population residing in cities that have membership in the ECFRPC.

PETITION TO VACATE PUBLIC HEARING - APPLICANTS: JAMES AND DELORES BRANNICK; PETITION TO VACATE 96-46, A 1.0-FOOT BY 39.0-FOOT PORTION OF AN UNOPENED 25.0-FOOT RIGHT-OF-WAY; DISTRICT 2

Notice was given that the Board of County Commissioners would hold a public hearing to consider a request by James and Delores Brannick, Petition to Vacate 96-46, to vacate a 1.0-foot by 39.0-foot portion of Fourth Street, an unopened 25.0-foot-wide right-of-way; on property generally located on the north side of Annandale Avenue approximately 1000 feet west of the Annandale Avenue/Edgewater Drive intersection; District 2; Section 4, Township 22, Range 29; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Deputy Public Works Division Director Bill Baxter reviewed the request and the recommendation for approval of the petition to vacate as submitted.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Staley, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted a resolution granting Petition to Vacate 96-46 vacating

a 1.0-foot by 39.0-foot portion of Fourth Street, an unopened 25.0-foot-wide right-of-way on the above-described property.

(Resolution is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

PETITION TO VACATE PUBLIC HEARING - APPLICANTS: MANUEL OLIVIA ROMERO AND ROBERT ECCLI; PETITION TO VACATE 96-48, APPROXIMATELY 150.0 FEET OF A 60.0-FOOT-WIDE UNOPENED RIGHT-OF-WAY; DISTRICT 5

Notice was given that the Board of County Commissioners would hold a public hearing to consider a request by Manuel Olivia Romero and Robert C. Eccli, Petition to Vacate 96-48, to vacate approximately 150.0 feet of Fairfield Street, a 60.0-foot-wide unopened right-of-way; on property generally located on the north side of S.R. 50, approximately 3200 feet east of the S.R. 50/S.R. 13 intersection connecting S.R. 50 to Old Cheney Highway; District 5; Section 27, Township 22, Range 32; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Deputy Public Works Division Director Bill Baxter reviewed the request and the recommendation for approval of the petition to vacate subject to the reservation of a utility easement over the entire right-of-way. Mr. Baxter stated that the easement was reserved in the petition.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Edwards, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted a resolution granting Petition to Vacate 96-48 vacating approximately 150.0 feet of Fairfield Street, a 60.0-foot-wide unopened right-of-way on the above-described property subject to the reservation of a utility easement over the entire right-of-way.

(Resolution is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

PETITION TO VACATE PUBLIC HEARING - APPLICANTS: JAMES HOLEHOUSE AND DARRELL GOTTARD; PETITION TO VACATE 97-07, APPROXIMATELY 1280 FEET OF A 25.0-FOOT-WIDE UNOPENED RIGHT-OF-WAY; DISTRICT 1

Notice was given that the Board of County Commissioners would hold a public hearing to consider a request by James G. Holehouse and Darrell W. Gottard, Petition to Vacate 97-07, to vacate approximately 1280 feet of Davenport Road, an unopened 25.0-foot-wide right-of-way; on property generally located approximately 1280 feet south of the Davenport Road/Avalon Road intersection and continuing approximately 1280 feet to its intersection with Sandhill Road; District 1; Section 8, Township 23, Range 27; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Deputy Public Works Division Director Bill Baxter reviewed the request and the recommendation for approval of the petition to vacate as submitted.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted a resolution granting Petition to Vacate 97-07 vacating approximately 1280 feet of Davenport Road, an unopened 25.0-foot-wide right-of-way on the above-described property.

(Resolution is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

(NOTE: THE FOLLOWING FIVE PUBLIC HEARINGS WERE CONSIDERED TOGETHER. SEE PAGE 367 FOR THE APPEARANCES, DISCUSSION, AND MOTION.)

MSTU/BU PUBLIC HEARING - AMEND WATERFORD LAKES TRACT N-25A PHASES 1-3 MSTU/BU, STREETLIGHTING, DISTRICT 4

Notice was given that the Board of County Commissioners would hold a public hearing to consider the establishment of an MSTU/BU for streetlighting at Waterford Lakes Tract N-25A Phases 1 through 3; Section 26, Township 22, Range 31; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

MSTU Supervisor Elizabeth Godwin reported that this request from the developer has an annual cost of \$143 per lot for streetlighting.

and

MSTU/BU PUBLIC HEARING - AMEND CURRY FORD ROAD EAST PHASES 1-3 MSTU/BU, STREETLIGHTING AND MAINTENANCE OF RETENTION POND(S), DISTRICT 3

Notice was given that the Board of County Commissioners would hold a public hearing to consider the establishment of an MSTU/BU for streetlighting and maintenance of retention pond(s) at Curry Ford Road East Phases 1 through 3; Sections 5 and 6, Township 23, Range 31; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

MSTU Supervisor Elizabeth Godwin reported that this request from the developer has an annual cost of \$36 per lot for streetlighting and an annual cost of \$54 per lot for maintenance of retention pond(s).

and

MSTU/BU PUBLIC HEARING - ESTABLISH WOODLANDS POINTE MSTU/BU, STREETLIGHTING, DISTRICT 4

Notice was given that the Board of County Commissioners would hold a public hearing to consider the establishment of an MSTU/BU for streetlighting at Woodlands Pointe; Section 35, Township 22, Range 31; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

MSTU Supervisor Elizabeth Godwin reported that this request from the developer has an annual cost of \$128 per lot for streetlighting.

and

MSTU/BU PUBLIC HEARING - ESTABLISH WEKIVA CHASE MSTU/BU, STREETLIGHTING AND MAINTENANCE OF RETENTION POND(S), DISTRICT 2

Notice was given that the Board of County Commissioners would hold a public hearing to consider the establishment of an MSTU/BU for streetlighting and maintenance of retention pond(s) at Wekiva Chase; Section 11, Township 21, Range 28; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

MSTU Supervisor Elizabeth Godwin reported that this request from the developer has an annual cost of \$47 per lot for streetlighting and an annual cost of \$27 per lot for maintenance of retention pond(s).

and

MSTU/BU PUBLIC HEARING - ESTABLISH ECON RIVER ESTATES MSTU/BU, STREETLIGHTING AND MAINTENANCE OF RETENTION POND(S), DISTRICT 5

Notice was given that the Board of County Commissioners would hold a public hearing to consider the establishment of an MSTU/BU for streetlighting and maintenance of retention pond(s) at Econ River Estates; Section 18, Township 22, Range 31; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

MSTU Supervisor Elizabeth Godwin reported that this request from the developer has an annual cost of \$33 per lot for streetlighting and an annual cost of \$27 per lot for maintenance of retention pond(s).

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Staley, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted resolutions:

- Amending Waterford Lakes Tract N-25A Phases 1 through 3 MSTU/BU; annual cost of \$143 per lot for streetlighting;
- Amending Curry Ford Road East Phases 1 through 3 MSTU/BU; annual cost of \$36 per lot for streetlighting and \$54 per lot for retention pond(s) maintenance;
- Establishing Woodlands Pointe MSTU/BU; annual cost of \$128 for streetlighting;
- Establishing Wekiva Chase MSTU/BU; annual cost of \$47 for streetlighting and \$27 for retention pond(s) maintenance;

and further, continued the public hearing to consider establishing the Econ River Estates MSTU/BU until June 24, 1997, at 2 p.m.

(Resolutions are is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

SETTLEMENT PUBLIC HEARING - MARTIN PAVING COMPANY VS. ORANGE COUNTY; CI95-614; PERSHING AVENUE ROAD IMPROVEMENTS; DISTRICT 3

Notice was given that the Board of County Commissioners would hold a public hearing to consider the proposed settlement of the lawsuit involving the construction of Pershing Avenue; Martin Paving Company vs. Orange County; Case No. CI95-614.

Staff Report

Assistant County Attorney Joe Passiatore described the location and scope of the road improvements and reviewed the Court's findings. Mr. Passiatore reviewed the terms of the settlement and the recommendation to pay an additional \$243,268 to the \$256,732 currently held in retainage for a total final payment of \$500,000 in full and final settlement of all claims between the County and Martin Paving Company.

Bill Wythe, former Highway Construction Department Manager, explained the issues relating to the construction delays caused by Florida Power Corporation's failure to relocate its power poles from the County's right-of-way in a timely manner.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved paying an additional \$243,268 to the \$256,732 currently held in retainage for a total final payment of \$500,000 in full and final settlement of all claims between the County and Martin Paving Company.

BOAT RAMP PUBLIC HEARING - APPLICANT: EVANS HUBBARD, PERMIT APPLICATION, LAKE TIBET BUTLER, DISTRICT 1

Notice was given that the Board of County Commissioners would hold a public hearing to consider a request by by Evans Hubbard for a permit to construct a boat ramp pursuant to Orange County Code Chapter 15, Article XV, on property on property adjacent to Lake Tibet Butler, generally located on the east side of Lake Tibet Butler, adjacent to the Pointe Tibet Place Subdivision; District 1; Section 28, Township 23, Range 28; Orange County, Florida.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Environmental Specialist Pam Thomas outlined the request and the recommendation of approval subject to conditions.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved the request by Evans Hubbard for a permit to construct a boat ramp adjacent to Lake Tibet Butler subject to the following conditions:

- 1. Ramp must be built according to the plans submitted with the permit application.
- 2. If the Hubbard property is ever developed into a subdivision, a public hearing shall be held to determine if the facility will be upgraded to a semiprivate ramp, according to Orange County Code Chapter 15, Article XV.

BOARD OF ZONING ADJUSTMENT APPEAL - APPELLANTS: JULIA AND BRENDA ROGERS; APPLICANT: ROHLAND JUNE, WEST ORANGE GIRLS CLUB; ITEM 2, MAY 1, 1997; DISTRICT 1

Notice was given that the Board of County Commissioners would hold a public hearing to consider an appeal by Julia F. Rogers and Brenda B. Rogers of the recommendation of the Board of Zoning Adjustment, dated May 1, 1997, on a request by Rohland A. June, West Orange Girls Club, for approval of a special exception in Agricultural District (A-1) for a recreational facility (a five-field softball complex for women aged five through 22, on property generally located on the east side of Ocoee-Apopka Road, approximately one-half mile north of Silver Star Road and three-quarters of a mile south of Fullers Cross Road; District 1; Section 7, Township 22, Range 28; Orange County, Florida

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Zoning Department Manager Melvin Pittman outlined the request and identified the subject property, the surrounding zoning classifications, and noted that the Board of Zoning Adjustment (BZA) recommended approval of the request subject to conditions.

Mr. Pittman stated that subsequent to the BZA decision the applicant and the appellant worked out a compromise regarding the landscape buffering along the north property line. He added the compromise resulted in an amendment of Condition 7 as follows:

In addition, two rows of Southern Red Cedar, 14 feet on center, shall be planted along the north property line, staggered. The first 150 feet starting on the northwest corner shall be planted with 10 gallon, five to seven feet in height plants, the remainder shall consist of three gallon, three to five feet in height plants. There will also be a six foot in height stockade privacy fence starting in the northwest corner for 150 feet on the property line.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Staley, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board upheld the decision of the Orange County Board of Zoning Adjustment and approved the request by Rohland A. June, West Orange Girls Club, for approval of a special exception in Agricultural District (A-1) for a recreational facility (a five-field softball complex for women aged five through 22 subject to the following conditions with Condition 7 revised as outlined:

". . .In addition, two rows of Southern Red Cedar, 14 feet on center, shall be planted along the north property line, staggered. The first 150 feet starting on the northwest corner shall be planted with 10 gallon, five to seven feet in height plants, the remainder shall consist of three gallon, three to five feet in height plants. There will also be a six foot in height stockade privacy fence starting in the northwest corner for 150 feet on the property line."

1. Development in accordance with site plan dated March 18, 1997, and all other regulations and policies.
2. Light poles shall be limited to 50 feet in total height. Light poles shall be setback a minimum of 200 feet from the

existing Ocoee-Apopka Road right-of-way line and 300 feet from the single-family residence to the north. All light shall be hooded and directed downwards toward the site.

3. Access and roadway improvements shall be subject to the County Engineer's approval.
4. The concession stand shall be opened during practices and games only. The sale of alcohol beverages shall be prohibited.
5. Only one ground sign advertising the complex shall be permitted for this site. Said sign shall advertise the softball field complex only.
6. There shall be no encroachments into or adverse impacts to the wetlands on site.
7. Landscaping shall be in accordance with Chapter 24 of the Orange County Code. Existing vegetation may be used to meet these requirements. The applicant shall preserve the existing vegetation/citrus trees on site to the greatest extent possible. In addition, two rows of Southern Red Cedar, 14 feet on center, shall be planted along the north property line, staggered. The first 150 feet starting on the northwest corner shall be planted with 10 gallon, five to seven feet in height plants, the remainder shall consist of three gallon, three to five feet in height plants. There will also be a six foot in height stockade privacy fence starting in the northwest corner for 150 feet on the property line.
8. Handicapped parking spaces shall be paved.
9. Permits shall be obtained within two years of this approval date.

PLANNING AND ZONING COMMISSION APPEAL - APPELLANT: PATRESE LOVECRAFT;
APPLICANT: ROGER SMITH, ORANGE CENTER; Z-97-017, MARCH 20, 1997; DISTRICT 1
(CONTINUED FROM MAY 13, 1997)

By consensus, the Board reopened the public hearing to consider an appeal by Patrese Lovcraft of the recommendation of the Orange County Planning and Zoning Commission, dated March 20, 1997, on a

request by Roger Smith, Orange Center, for approval to rezone Rural Country Estate (RCE) (1957) to Residential District (R-2), continued from the May 13, 1997, Board meeting.

(The legal property description is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

Commissioner's Report

Commissioner Freeman requested that the public hearing be continued because a community meeting has been scheduled to address this matter.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board continued the public hearing to consider an appeal by Patrese Lovcraft of the recommendation of the Orange County Planning and Zoning Commission, dated March 20, 1997, on a request by Roger Smith, Orange Center, for approval to rezone Rural Country Estate (RCE) (1957) to Residential District (R-2) until July 1, 1997, at 2:45 p.m.

SUBSTANTIAL CHANGE PUBLIC HEARING - APPLICANT: HAL KANTOR, ESQUIRE; BELMERE PLANNED DEVELOPMENT/LAND USE PLAN (PD/LUP); AMEND THE LUP, DISTRICT 1

Notice was given that the Board of County Commissioners would hold a public hearing to consider a substantial change request by Hal Kantor, Esquire, Belmere Planned Development, to amend the LUP to change the language under "Approved Number of Units" to read as follows:

1,074 total units subject to a maximum of 366 single-family units for Parcels A-F and 708 units for Parcels G and H and subject to a maximum of 300 multi-family units at a density not to exceed 15 units per acre and a maximum of 130 Assisted Community Living Facility (ACLF) units within Parcel H. Any number of the 366 allowed single-family units within Parcels A-F can be transferred to Parcel H. Any number of the allowed 300 multi-family units and 130 ACLF units may be converted and transferred to Parcel G based on a conversion ratio of one multi-family unit per single-family unit and 7 ACLF units per single family unit. Each of the foregoing transfers are subject to the aforementioned maximums, . . .

pursuant to Orange County Code, Chapter 30, Section 38-1207; on property generally located south of Roberson Road, west of Maguire Road and east of Windermere Road; District 1; Sections 6 and 31, Townships 22 and 23, Range 28; Orange County, Florida.

(The legal property description is on file in the Office of the Comptroller Clerk of the Board of County Commissioners.)

Staff Report

Planning Department Manager David Heath reviewed the location of the property, the surrounding land uses, and the change determination request. Mr. Heath explained the Development Review Committee's recommendation of approval subject to conditions.

Appearances

The following persons addressed the Board in favor of the request:

- Hal Kantor, Esquire; Lowndes, Drosdick, Doster, Kantor, and Reed (no address given).
- Gordon Knutt, the developer (no address given).

The following persons addressed the Board in opposition to the request:

- William Humble, president of the Willows at Lake Rhea Homeowners' Association; 11431 Willow Garden Drive, Windermere, Florida.
- Raymond Kellett, Jr., 2122 Willow Lauren Lane, Windermere, Florida.
- Lynette Goslin, 12033 Walker Pond Road, Winter Garden, Florida.

The following persons addressed the Board with general comments:

- Teresa Jacobs, 8652 Sugar Plum Court, Orlando Florida; for Richard Denton, president of the Orange County Homeowners' Association.
- Mike Rushing, 11007 Groveshire Court, Ocoee, Florida.
- Rosemarie Morganto, 11012 Groveshire Court, Ocoee, Florida.
- Ben Fertic, 835 Grovesmere Loop, Ocoee, Florida.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

A motion by Commissioner Freeman to approve the request by Hal Kantor, Esquire, Belmere Planned Development, to amend the Land Use Plan to change the language under "Approved Number of Units" to read as follows:

1,074 total units subject to a maximum of 366 single-family units for Parcels A-F and 708 units for Parcels G and H and subject to a maximum of 300 multi-family units at a density not to exceed 15 units per acre and a maximum of 130 Assisted Community Living Facility (ACLF) units within Parcel H. Any number

of the 366 allowed single-family units within Parcels A-F can be transferred to Parcel H. Any number of the allowed 300 multi-family units and 130 ACLF units may be converted and transferred to Parcel G based on a conversion ratio of one multi-family unit per single-family unit and 7 ACLF units per single-family unit. Each of the foregoing transfers are subject to the aforementioned maximums, . . .

which constitutes a substantial change to the development on the above-described property; subject to the following conditions:

1. Development shall conform to the Belmere Planned Development /Land Use Plan (PD/LUP) Board of County Commissioners' (BCC) approvals, and the LUP amendment 01/97, dated "Received April 16, 1997," and to the following conditions of approval. Development based on this approval shall comply with all other applicable federal, state, and county laws, ordinances and regulations, which are incorporated herein by reference, except to the extent [the applicable laws, ordinances, and regulations] are expressly waived or modified by these conditions, or by action approved by the Orange County BCC, or by action of the BCC.
2. The request for multi-family uses is denied. During this time period, Orange County, Ocoee, and the developer will work together to identify an alternate land use for the multi-family parcel, satisfactory to all parties.
3. Prior to development plan approval, the Developer's Agreement

for the additional five (5)-acre park site shall be modified to allow for the optional clause to be extended from 1998 to 2000;

and further, make a finding of consistency with the Comprehensive Policy Plan died for the lack of a second.

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; to continue the public hearing to consider the request by Hal Kantor, Esquire, Belmere Planned Development, to amend the Land Use Plan to change the language under "Approved Number of Units" to read as follows:

1,074 total units subject to a maximum of 366 single-family units for Parcels A-F and 708 units for Parcels G and H and subject to a maximum of 300 multi-family units at a density not to exceed 15 units per acre and a maximum of 130 Assisted Community Living Facility (ACLF) units within Parcel H. Any number of the 366 allowed single-family units within Parcels A-F can be transferred to Parcel H. Any number of the allowed 300 multi-family units and 130 ACLF units may be converted and transferred to Parcel G based on a conversion ratio of one multi-family unit per single-family unit and 7 ACLF units per single-family unit. Each of the foregoing transfers are subject to the aforementioned maximums, . . .

until July 15, 1997, at 2:45 p.m., for decision only.

ORDINANCE PUBLIC HEARING - AMENDING ORANGE COUNTY CODE, CHAPTER 38, ZONING; AMENDING THE COMMUNICATION TOWERS ORDINANCE (2ND HEARING CONTINUED FROM FEBRUARY 25, APRIL 15, MAY 20, AND JUNE 10, 1997)

By consensus, the Board reopened the second of two public hearings to consider a proposed ordinance affecting the use of land, amending the Communication Towers Ordinance continued from the February 25, April 15, May 20, and June 10, 1997, Board meetings.

Staff Report

Assistant County Attorney Paul Chipok stated that this public hearing has been continued from the second of two public hearings to consider the proposed ordinance for decision only. Mr. Chipok explained the unresolved issues and requested that the Board vote on each issue.

Tower-to-Residential Distance Separation - Lattice and Guyed Towers

Motion

Upon a motion by Commissioner Staley, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine

was absent; the Board approved the following tower-to-residential separation for lattice and guyed towers:

- Single-family or duplex residential units - 700 percent of the height of the tower;
- Vacant single-family or duplex residentially zoned platted lands - 700 percent of the height of the tower;
- Vacant unplatted residentially zoned lands - 700 percent of the height of the tower;
- Existing multi-family zoned lands - 700 percent of the height of the tower;

and further, upon a motion by County Chairman Chapin, seconded by Commissioner Staley, and carried with County Chairman Chapin and Commissioners Staley, Johnson, Edwards, and Butler voting AYE by voice vote; Commissioner Freeman voting NO by voice vote; Commissioner Hoenstine was absent; the Board amended the above motion to adopt a tower-to-residential separation from vacant unplatted residentially zoned lands for lattice and guyed towers of 200 percent of the height of the tower.

Tower-to-Residential Distance Separation - Monopole Towers

Motion

Upon a motion by Commissioner Staley, seconded by Commissioner Freeman, and carried with County Chairman Chapin and Commissioners Freeman, Staley, and Johnson voting AYE by voice vote; Commissioners Edwards and Butler voting NO by voice vote; Commissioner Hoenstine was absent; the Board adopted the following tower-to-residential separation for monopole towers:

Single-family or duplex residential units

- monopoles greater than 140 feet in height - 700 percent of the height of the monopole;
- monopoles less than 140 feet in height - 500 percent of the height of the monopole;

Vacant single-family or duplex residentially zoned platted lands

- monopoles greater than 140 feet - 700 percent of the height of the monopole;
- monopoles less than 140 feet - 500 percent of the height of the monopole;

Vacant unplatted residentially zoned lands

- 200 percent of the height of the tower;

Existing multi-family zoned lands

- monopoles greater than 140 feet in height - 700 percent of the height of the monopole;
- monopoles less than 140 feet in height - 500 percent of the height of the monopole.

Tower-to-Residential Separation - Bonus Reduction

Motion

A motion by Commissioner Edwards, seconded by Commissioner Butler, with County Chairman Chapin and Commissioners Edwards and Butler voting AYE by voice vote; Commissioners Freeman, Staley, and Johnson voting NO by voice vote; Commissioner Hoenstine was absent; to retain a bonus reduction for up front colocation of towers failed in a tie vote (see page 389 for further action).

Tower-to-Residential Separation - Maximum Separation

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Edwards, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted a maximum distance separation of 1500 feet for towers greater than 300 feet high.

Tower-to-Residential Separation - Three or Fewer Nonconforming Residential Uses

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Edwards, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board retained the provision in the proposed ordinance for nonconforming residential uses.

Tower-to-Tower Separation**Motion**

Upon a motion by County Chairman Chapin, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved the following monopole height categories:

- greater than 170 feet;
- between 80 and 170 feet;
- less than 80 feet.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with County Chairman Chapin and Commissioners Freeman, Staley, Johnson, and Butler voting AYE by voice vote; Commissioner Edwards voting NO by voice vote; Commissioner Hoenstine was absent; the Board approved the following tower-to-tower distance separation:

Lattice towers or guyed towers

- | | |
|--------------------------------------|--------------|
| - to lattice towers | - 5,000 feet |
| - to guyed towers | - 5,000 feet |
| - to monopoles greater than 170 feet | - 3,500 feet |
| - to monopoles 80 to 170 feet | - 2,500 feet |
| - to monopoles less than 80 feet | - 500 feet |

Monopoles greater than 170 feet

- | | |
|-------------------------|--------------|
| - to lattice towers | - 3,500 feet |
| - to guyed towers | - 3,500 feet |
| - to monopole towers | |
| - greater than 170 feet | - 3,500 feet |
| - 80 and 170 feet | - 2,500 feet |
| - less than 80 feet | - 500 feet |

Monopoles 80 to 170 feet

- | | |
|-------------------------|--------------|
| - to lattice towers | - 2,500 feet |
| - to guyed towers | - 2,500 feet |
| - to monopole towers | |
| - greater than 170 feet | - 2,500 feet |
| - 80 and 170 feet | - 1,500 feet |
| - less than 80 feet | - 500 feet |

Monopole tower less than 80 feet

- to any other tower
- 500 feet

Tower-to-Tower Separation - Bonus Reduction

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Edwards, and carried with County Chairman Chapin and Commissioners Staley, Edwards, and Butler voting AYE by voice vote; Commissioners Freeman and Johnson voting NO by voice vote; Commissioner Hoenstine was absent; the Board retained the bonus reduction for up-front colocation for tower-to-tower separation.

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Edwards, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board adopted the following bonus distance reduction for tower-to-tower separation:

- decrease by 500 feet for proposed towers greater than 80 feet in height;
- decrease by 100 feet for proposed towers less than 80 feet in height.

Tower-to-Tower Separation - Remove the Separation Requirement

Action

By consensus, the Board elected not to include a provision for removing the requirement for tower-to-tower separation if the existing facility is collocated.

Abandonment Provisions

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved:

- deleting Subsection (c) of Section 8, pages 10 and 11, lines 402 through 423 in the March 28, 1997, draft;
- amending the introductory paragraph;
- adding a new Subsection (a) as follows:

(12) Documentation, Performance Bond or Deposit for Removal. Prior to receiving a building permit for construction of the communication tower if the applicant does not provide a recorded memorandum of lease of colocation then the applicant shall provide either:

(a) documentation supplied to the Zoning manager sufficient to demonstrate that an adequate methodology and/or sufficient funds are dedicated to and available for removal of the tower structure upon abandonment (by way of example and not limitation, sufficient documentation would include evidence that the tower owner has the obligation under the governing lease to dismantle and remove the tower upon abandonment); or

- renumbering existing subsections (a) and (b) to (b) and (c);
- adding a new section to amend Code Section 38-1427(f) as follows:

(f) Abandonment of Communication Towers

- (1) Compelling Public Interest. The Board of County Commissioners finds and declares that because of the national public policy of ensuring that the wireless communications industry and its evolving new technologies are accommodated notwithstanding the undesirable effects that communication towers may have on the aesthetics of communities and neighborhoods, there is a compelling public interest in ensuring that communication towers are promptly disassembled, dismantled, and removed once they are no longer being used. Further, the Board finds that there is substantial risk that towers may cease being used in large numbers if there is a concentration or consolidation of competitors within the industry or even if new technologies arise, obviating the need for towers.
- (2) Abandonment. In the event the use of any communication tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Zoning manager, who shall have the

right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Failure or refusal for any reason by the owner/operator to respond within twenty days to such a request shall constitute prima facie evidence that the communication tower has been abandoned. Upon a determination of abandonment and notice thereof to the owner/operator, the owner/operator of the tower shall have an additional one hundred eighty (180) days within which to: (i) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower within the one hundred eighty (180) day period, or (ii) dismantle and remove the tower. At the earlier of one hundred eighty-one (181) days from the date of abandonment without reactivation or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

- (3) Duty to Remove Abandoned Towers. Notwithstanding the provisions of paragraph (2), upon abandonment of a communication tower as determined under paragraph (2) by the Zoning manager and the failure or refusal by the owner/operator of the tower to either reactivate the tower or dismantle and remove it within one hundred eighty (180) days as required by paragraph (2), the following persons or entities (the "responsible parties") shall have the duty jointly and severally to remove the abandoned tower:
- A. the owner of the abandoned tower (and, if different, the operator of the abandoned tower);
 - B. the owner of the land upon which the abandoned tower is located;
 - C. the lessee, if any, of the land upon which the tower is located;
 - D. the subleasee or subleasees, if any, of the land upon which the tower is located;

- E. any communication service provider who or which by ceasing to utilize the tower or otherwise failing to operate any of its transmitters or antennas on the tower for which it leased space or purchased the right to space on the tower for its transmitters or antennas and such ceasing or failure to utilize the tower in fact caused the tower to become abandoned;
- F. any person to whom or entity to which there has been transferred or assigned any license issued by the Federal Communications Commission and under which the tower owner/operator operated the tower;
- G. any person or entity which has purchased all or a substantial portion of the assets of the tower owner or operator;
- H. any entity which has merged with, or which has arisen or resulted from a merger with the tower owner or operator;
- I. any person or entity which has acquired the owner or the operator of the abandoned tower;
- J. any parent or subsidiary of any of the foregoing which happens to be a corporation;
- K. any managing partner of any of the foregoing which happens to be a limited partnership; and
- L. any partner of any of the foregoing which happens to be a general partnership.

The abandoned tower shall be removed on or before the ninetieth day after receipt by the responsible party or parties of a notice from the Zoning manager ordering its removal. The duty imposed by this paragraph shall supersede and otherwise override any conflicting provision of any contract, agreement, lease, sublease, license, franchise or other instrument entered into or issued on and after June 10, 1997.

(4) Enforcement. The County Chairman shall take such actions from time to time as are necessary or useful to enforce the duty and requirements imposed by this subsection, and in the course of enforcement the County Chairman may avail himself/herself of any one or more of the following:

- A. Proceedings to enforce this subsection may be brought before the code enforcement board in the manner allowed by general law and this County Code.
- B. Proceedings to enforce this subsection may be brought before the circuit court in the Ninth Judicial Circuit of Florida, and in such proceedings the County shall be entitled to all remedies at law and in equity, including (but not limited to) injunctive

relief. Further, upon a determination that a defendant has violated a duty or requirement of this subsection, the court shall award reasonable attorneys' fees and costs to the County, including fees and costs incurred by the County on appeal.

- C. Upon directive by the County Chairman, the County may withhold from any person or entity in violation of this subsection all future development permits (as that term is defined by section 163.3164(8) of Florida Statutes) and otherwise may refrain from processing any applications by the violator for approval of any zoning changes, special exceptions, variances, site plans, subdivision plans, plats, developments of regional impact, substantial deviations from DRI development order, substantial changes to planned developments, right-of-way utilization permits, building permits, cable television franchises (or renewals thereof or amendments thereto), or any other County regulatory permits or approvals.

- D. The County may remove the tower using the funds or surety bonds, if any, deposited under Subparagraph (12) of Subsection (d) by the responsible parties and thereafter initiate judicial proceedings against the responsible parties for any portion of the cost not covered by the deposited funds or surety bonds. If the responsible parties include the owner of the land on which the abandoned tower is or was located, such portion of the cost shall be assessed against the land, and the County may file a lien thereon. The lien of the assessment shall bear interest and shall have priority and be collectable at the same rate and in like manner as provided under Florida law and this Code for special assessments.

Amendments to the Ordinance Draft of March 28, 1997

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending page 2, lines 50 through 59, as follows:

WHEREAS, in approving a special exception, Orange County may impose appropriate conditions and safeguards; and . . .

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved adding the following sentence at the end of Subsection (b)(8):

For the purpose of applying Section 38-1427(m) to a memorandum of lease the term "special exception" shall be read as "tower use permit."

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Butler, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved deleting Subsection (b)(11) of Section 4.

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Staley, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending Subsection (g) of Section 9 as follows:

- (g) Communication antennas. Any communication antenna which is not attached to a communication tower, shall be a permitted ancillary use to any commercial, industrial, professional, institutional, or multi-family structure of at least three (3) stories in height provided:

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending Subsection (10) of Section 12 as follows:

- (10) An inventory of all communication towers located in Orange County which are under the applicant's control and/or being used by the applicant. Information on each tower listed shall include: i) the type of tower or structure, ii) the height of the tower including antennas, iii) latitude and longitude location, iv) street address, and v) indication whether the site is colocated, and if so, with whom, . . .

Motion

Upon a motion by Commissioner Johnson, seconded by Commissioner Staley, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending page 16 line 626 by deleting the word "shall" and inserting the word "may."

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending Subsection (13) of Section 12 as follows:

- (13) for all special exception and/or variance requests the applicant shall provide the RF search ring used to determine the location of the applicant's request. In addition, the applicant shall supply a report that other parcels within the applicant's search ring have been reviewed and where appropriate, contacted.

The applicant shall provide adequate documentation to substantiate the applicant's determination of feasibility of the selected site.

Motion

Upon a motion by Commissioner Butler, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved adding the following language to the end of the subsection at page 17, line 683:

. . . provided, however, that the foregoing inquiry authority of the Zoning manager under this clause (ii) and Section 38-1427(b)(8) shall not be exercised with respect to a particular communication tower more frequently than after three (3) years initially, and annually thereafter.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending Subsection (e) of Section 13 as follows:

(e) If at any time during this process the special exception holder submits to the Zoning manager a recorded memorandum of lease with any other service provider the further proceedings hereunder shall be canceled since the tower will in fact be a colocated facility. Prior to canceling the hearing, the Zoning manager will verify the memorandum of lease. The Zoning manager shall notify the parties and the hearing officer of the cancellation of these proceedings. Upon termination of the colocation lease Sections 38-1427(m)(4), (5), and (6) shall again apply.

County Chairman/Commissioner Input - Tower-to-Hotel/Motel/Timeshare Separation

Motion

Upon a motion by Commissioner Edwards, seconded by County Chairman Chapin, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved adding the following footnote at the end of Section 38-1427(d)(2)d:

For purposes of implementation of this subsection only, single-family or duplex residential units shall be considered to

include hotel, motel, and timeshare units located in the Tourism District. However, if each of the following criteria are met:

- (i) the affected hotel, motel, or timeshare unit facility is approached by the service provider to place a communication antenna on top of the hotel/motel/ timeshare facility in a manner consistent with Section 38-1427(g),
- (ii) the placement of such antenna is technically feasible, and
- (iii) the service provider and hotel/motel/timeshare facility deal with each other in good faith to provide lease rental compensation consistent with reasonable market rates comparable for such usage;

and the hotel, motel, or timeshare unit facility refuses to allow the service provider to locate the communication antenna on such facility, then the Zoning manager shall determine that the hotel, motel, or timeshare facility is to be treated as non-residentially zoned lands for the purpose of implementation of this subsection. The Zoning manager's determination under this subsection shall be appealable to a hearing officer generally following the procedures set forth in Section 38-1427(m) with the term "colocation" interpreted to mean "request for placement of a communication antenna on top of a hotel, motel, or timeshare unit facility."

County Chairman/Commissioner Input - Colocation 45-day Waiting Period

Motion

Upon a motion by Commissioner Freeman, seconded by County Chairman Chapin, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved amending Section 12, Subsection (1)(11) to read as follows:

- (11)(a) A copy of the recorded memorandum of lease evidencing co-location, if such memorandum exists.
- (11)(b) When there is no memorandum of lease filed with the permit application, the application shall be held by the Zoning manager for 45 days, and

- (i) within 15 days of permit application being submitted to the County the applicant shall send by registered mail notice to each FCC licensed service provider in the applicant's search ring and each FCC licensed service provider who has registered for notice under this provision with Orange County. The notice shall include the location of the proposed tower (by street address and longitude and latitude), the height of the proposed tower, and a statement identifying the fair market value of leasing space on the tower for a second antenna by another service provider;
- (ii) after notice, if another service provider desires to locate on the proposed tower, but cannot reach agreement with the tower applicant then, prior to expiration of the 45-day period, the service provider may request a hearing under Section 38-1427(m);
- (iii) the Zoning manager shall take action on the permit application either after the 45-day period has run or upon final resolution of a matter forwarded to the hearing officer pursuant to Section 38-1427(m), whichever is later.
- (iv) the applicant may provide registered mail notice to those service providers as required in Subsection (i) above any time 30 days before application is made to the County. Upon documentation of registered mail being sent, the 45-day period shall be reduced by the amount of days notice was sent prior to the application being filed.

Camouflaged Towers

Action

By consensus, the Board approved accepting the staff recommendation that camouflaged towers are entitled to a bonus reduction of one-half of the applicable tower-to-residential and tower-to-tower separation distance.

Time Limits on Tower Approval

Appearances

The following persons addressed the Board with general comments:

- Ed Shiplet (no address given); for radio station WMTF 1580 AM, Bithlo.
- Teresa Jacobs (no address given).
- Martha Formella, Esquire; Foley and Lardner (no address given); for American Portable Telecom.
- Tom Mack (no address given).
- Dick Spears (no address given).

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Freeman, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board approved adding a provision to the proposed ordinance placing time limits on all tower approvals in residential and commercial zoning districts as follows:

(j) Nonconforming uses.

- (1) Existing Nonconforming Uses. Notwithstanding Subsection (f) above, bona fide nonconforming communications towers or antennas that are damaged or destroyed may be rebuilt without having to meet the separation requirements specified in Subsection (d)(2)d. and (d)(3). The type, height, and location of the tower on site shall be of the same type and intensity as the original facility approval. The rebuilt facility shall comply with the then applicable building codes, and the required building permits shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the communications facility shall be deemed abandoned as specified in Subsection (f).
- (2) Future Nonconforming Uses. If at any time after January 1, 2013, the Board of County Commissioners finds (i) that the technologies pertaining to communication towers have changed such that wireless communications can be readily provided with no towers or with towers or other structures that are substantially less intrusive to residential and commercial areas and substantially more aesthetic for neighborhoods and commercial areas and (ii) that the service providers in the county are making frequent use of the new technologies in the installation of new communication systems or the expansion of existing systems (whether such installations or expansions are occurring in Orange County or elsewhere), the Board may declare to be nonconforming uses all communication towers then existing in residential, professional office, and commercial zones (and in such corresponding areas within planned developments) in the county and which have been erected pursuant to building permits issued on or after July 1, 1997. The Board shall declare such towers to be nonconforming uses in an ordinance which amends this code to make such towers nonpermitted uses altogether in residential, professional office, and commercial zones (and such corresponding areas within planned developments) and, simultaneously, to make the new technologies permitted uses or special exceptions in those zones. The Board may then set such time limits as are reasonable and legally permissible for the service providers and tower owners/operators to remove the nonconforming towers and replace them with the newer technologies. This paragraph shall be effective only if and to the extent not prohibited or preempted by state or federal law.

Tower-to-Residential Separation - Bonus Reduction

Motion

Upon a motion by Commissioner Staley, seconded by Commissioner Freeman, and carried with County Chairman Chapin and Commissioners Freeman, Staley, and Johnson voting AYE by voice vote; Commissioners Edwards and Butler voting NO by voice vote; Commissioner Hoenstine was absent; the Board approved deleting the provision for a colocation bonus reduction for tower to residential separation from the March 28, 1997, draft of the proposed ordinance.

Motion

Upon a motion by Commissioner Freeman, seconded by Commissioner Johnson, and carried with County Chairman Chapin and Commissioners Freeman, Staley, Johnson, and Butler voting AYE by voice vote; Commissioner Edwards voting NO by voice vote; Commissioner Hoenstine was absent; the Board adopted the proposed ordinance amending the Communication Towers Ordinance as amended above.

(Ordinance 97-11 is on file in the office of the Comptroller Clerk of the Board of County Commissioners.)

HIGHWAY IMPROVEMENT PROJECT PUBLIC HEARING - ECONLOCKHATCHEE ROAD FROM COLONIAL DRIVE TO TREVARTHON ROAD, DISTRICT 3

Notice was given that the Board of County Commissioners would hold a public hearing to consider a road improvement (realignment) for Econlockhatchee Trail from Colonial Drive to Trevarthon Road in District 3, Orange County, Florida.

Staff Report

County Chairman Chapin announced that this public hearing will be continued.

Appearances

No one appeared in favor of or in opposition to the request.

Discussion

County Chairman Chapin closed the public hearing and opened the matter for Board discussion.

Motion

Upon a motion by County Chairman Chapin, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; Commissioner Hoenstine was absent; the Board continued the public hearing to consider a road improvement (realignment) for Econlockhatchee Trail from Colonial Drive to Trevarthon Road until July 22, 1997, at 3 p.m.

MEETING ADJOURNED

There being no further business, the County Chairman adjourned the meeting at 6:15 p.m.

THIS PAGE INTENTIONALLY LEFT BLANK