

MEETING OPENED

The Board of County Commissioners met in Commission Chambers on the First Floor, Orange County Administration Center, on Tuesday, October 2, 2001. The following were present:

- County Chairman Richard Crotty
- Commissioners Teresa Jacobs, Bob Sindler, Mary I. Johnson, Clarence Hoenstine, Ted Edwards, and Homer Hartage
- County Administrator Ajit Lalchandani
- County Attorney Tom Wilkes
- Deputy Clerk Rosilyn Stapleton

There being a quorum, the County Chairman called the meeting to order at 2 p.m.

The Board paused for an invocation by Imam Muhammad Musri, Islamic Society of Central Florida, followed by the Pledge of Allegiance to the Flag. The County Chairman presented a certificate of recognition to Iman Musri.

NONAGENDA – CONSENT ITEM**Action**

By consensus, the Board approved a nonagenda County Consent item as follows:

County Comptroller

1. Authorize the disbursement of warrants, vouchers, and wire transfers, having been certified that same had not been drawn on overexpended accounts, for the period as follows:

- September 21, 2001, to September 26, 2001; total of \$20,096,215.84.

(Finance and Accounting Department)

SEPTEMBER 20, 2001, PLANNING AND ZONING COMMISSION RECOMMENDATIONS**Action**

Upon a motion by Commissioner Hoenstine, seconded by Commissioner Johnson,

and carried with all members present and voting AYE by voice vote, the Board accepted the recommendations of the Orange County Planning and Zoning Commission under date of September 20, 2001; subject to the usual right of appeal by any aggrieved party.

For the record, appeals of the recommendations of the Orange County Planning and Zoning Commission under date of September 20, 2001, were filed in the Zoning Department and scheduled by the Comptroller Clerk's Office for public hearing, as follows:

- Appellant/Applicant: Gus R. Benite; Our Stoxx, Inc.; Case Z-01-091; public hearing date: October 30, 2001.

NOTE: FOR THE RECORD, THE FOLLOWING PUBLIC HEARINGS WERE ALL CONTINUED FROM THE SEPTEMBER 11, 2001, MEETING THAT WAS CANCELLED.

SHORELINE ALTERATION/DREDGE AND FILL PUBLIC HEARING - APPLICANT: ARNOLD PALMER ENTERPRISES, PERMIT, LAKE TIBET, DISTRICT 1 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a request by Arnold Palmer Enterprises for a dredge and fill permit to regrade the north canal at Bay Hill Club Marina, pursuant to Orange County Code, Chapter 15, Article VI, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff outlined the request and recommendation for approval subject to conditions.

Appearances

The following person addressed the Board regarding the request:

- Charles W. Drake, Hartman & Associates (no address given), for the applicant.

Discussion

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

Action

Upon a motion by Commissioner Jacobs, seconded by Commissioner Hoenstine, and carried with all members present and voting AYE by voice vote, the Board approved a request by Arnold Palmer Enterprises for a dredge and fill permit to regrade the north canal at Bay Hill Club Marina, subject to the following conditions:

1. The Environmental Protection Division must be notified by the applicant or contractor of the start and completion dates of the project.
2. The finish elevation of the canal within the six-foot-wide (6') canal channel shall be no greater than 91.5 inches above mean sea level.
3. The finish slopes of the canal should be no steeper than three horizontal to one vertical ratio.
4. The regraded sloughed materials (approximately 1,000 cubic feet) will be relocated to their original location along the canal banks.
5. The banks will be planted with a minimum of 425 native aquatic plants on two-foot (2') centers and 36 (ten-gallon size) bald cypress (*taxodium distichum*) set on ten-foot (10') centers.
6. After one year, if 80 percent of the replanted species do not survive, additional replanting will be required.
7. Applicant may also remove materials (approximately 500 cubic feet) near the boat ramp that were deposited from a stormwater culvert that inputs into the marina.
8. The applicant may also remove a boat ramp within the marina left unusable by the construction of a concrete seawall.
9. Turbidity must be confined to all permitted areas of work by the use of best management practices, such as turbidity screens, filter cloth, etc., and must remain in place until the turbidity does not exceed nephelometric turbidity units 29 above background. During the regrading of the north canal, turbidity screens must be installed at both ends of the canal.

10. **Construction shall be performed using the criteria set forth in Section 373.14 (5). This permit does not release the permittee from complying with all other federal, state, and local rules and regulations. If these conditions conflict with those of any other department, division or agency, the permittee must comply with the most stringent conditions.**

BOAT RAMP PUBLIC HEARING - APPLICANT: ARNOLD PALMER ENTERPRISES, PERMIT, LAKE TIBET, DISTRICT 1 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a request by Arnold Palmer Enterprises for a permit to make improvements to a boat ramp at the Bay Hill Club Marina, pursuant to Orange County Code, Chapter 15, Article XV, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff outlined the request and recommendation for approval subject to conditions.

Appearances

The following person addressed the Board regarding the request:

- Charles W. Drake, Hartman & Associates (no address given), for the applicant.

Discussion

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

Action

Upon a motion by Commissioner Jacobs, seconded by Commissioner Johnson, and carried with all members present and voting AYE by voice vote, the Board approved a request by Arnold Palmer Enterprises for a permit to make improvements to a boat ramp at the Bay Hill Club Marina adjacent to Lake Tibet, subject to the following conditions:

1. **A developer's agreement between the applicant and Orange County must be submitted and approved prior to construction of the boat ramp.**

2. **Turbidity must be confined to the permitted area of work by the use of best management practices, such as screens, filter cloth, etc., unless it can be demonstrated that state water quality standards on turbidity are not being violated.**
3. **The Environmental Protection Division must be notified by the applicant or the contractor of the start and completion dates of the project.**
4. **The permit must be posted in a conspicuous place on site before activity begins and must remain until completion.**
5. **Any existing aquatic vegetation impacted by the construction of the boat ramp must be replanted.**
6. **The construction of the boat ramp shall be in accordance with the stamped, approved drawings.**
7. **This permit does not authorize any dredging or filling which may be necessary to provide maintenance or creation of a navigable access from the boat ramp to the lake.**
8. **The boat ramp permit may be rescinded in the event that sufficient evidence of adverse environmental impact is provided by Orange County and issuance of this permit shall not be deemed to create any reliance or vested rights in favor of any third party.**
9. **An Orange County building permit must be obtained in addition to this permit.**
10. **A separate permit from the State of Florida Department of Environmental Protection, if applicable, will be obtained prior to this permit becoming valid.**

CONSERVATION AREA IMPACT PUBLIC HEARING - APPLICANT: BOB HARRELL PROPERTIES, INC.; CLASS I WETLAND PERMIT, HICKORY COVE PROJECT SITE; DISTRICT 5 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a request by Bob Harrell Properties, Inc., for a Conservation Area Impact Permit for Class I wetlands within

the Hickory Cove Project site, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff outlined the request and recommendation for approval subject to conditions.

Appearances

The following person addressed the Board regarding the request:

- John Miklos; Modica & Associates, Inc.; 310 Almond Street, Clermont, Florida; for the applicant.

Discussion

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

Action

Upon a motion by Commissioner Edwards, seconded by Commissioner Johnson, and carried with all members present and voting AYE by voice vote, the Board approved a request by Bob Harrell Properties, Inc., for a Conservation Area Impact Permit for Class I wetlands within the Hickory Cove Project site, on the above-described property, subject to the following conditions:

- 1. All preserved conservation areas and associated buffers must be platted with development rights dedicated to Orange County. Conservation easements must be approved by the St. John's River Water Management District. Copies of the recorded plats and easement documents must be submitted to the Environmental Protection Division within a reasonable timeframe prior to construction plan approval.**
- 2. As required in Orange County Code, Article XI, Section 15-442(f), upland buffers averaging 50 feet in width with a minimum of 25 feet in width shall be required for all Class I and Class II conservation areas.**
- 3. The Environmental Protection Division must be notified in writing by the applicant of the start and completion dates of the project.**

4. **Turbidity must be confined to the permitted area of work by the use of best management practices, such as screens, filter cloth, etc.**
5. **This permit does not release the permittee from complying with all other federal, state, and local rules and regulations. If these permit conditions conflict with those of any other agency, department, or division, the permittee must comply with the most stringent conditions.**

CONSERVATION AREA IMPACT PUBLIC HEARING - APPLICANT: WATERFORD TRAILS PARTNERSHIP, CLASS I WETLAND PERMIT, WATERFORD TRAILS, DISTRICT 4 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a request by Waterford Trails Partnership for a Conservation Area Impact Permit for Class I wetlands within the Waterford Trails Project site, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff outlined the request and recommendation for approval subject to conditions.

Appearances

The following person addressed the Board regarding the request:

- John Miklos; Modica & Associates, Inc.; 310 Almond Street, Clermont, Florida; for the applicant.

Discussion

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

Action

Upon a motion by Commissioner Hoenstine, seconded by Commissioner Johnson, and carried with all members present and voting AYE by voice vote, the Board approved a request by Waterford Trails Partnership, for a Conservation Area Impact Permit for Class I wetlands within the Waterford Trails project site, on the above-described property; subject to the following conditions:

1. All preserved conservation areas and associated buffers must be platted with development rights dedicated to Orange County. Conservation easements must be approved by the St. John's River Water Management District. Copies of the recorded plats and easement documents must be submitted to the Environmental Protection Division within a reasonable time frame prior to construction activities.
2. The Environmental Protection Division must be notified in writing by the applicant of the start and completion dates of the project.
3. Turbidity must be confined to the permitted area of work by the use of best management practices, such as screens, filter cloth, etc.
4. This permit does not release the permittee from complying with all other federal, state, and local rules and regulations. If these permit conditions conflict with those of any other agency, department, or division, the permittee must comply with the most stringent conditions.

SUBSTANTIAL CHANGE PUBLIC HEARING - APPLICANT: U S HOME CORPORATION, INC.; GEORGIA COVE PRELIMINARY SUBDIVISION AKA ORANGE RIDGE PRELIMINARY SUBDIVISION PLAN (PSP); AMEND PSP; DISTRICT 5 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a substantial change request by U S Home Corporation, Inc.; Georgia Cove Preliminary Subdivision aka Orange Ridge PSP; to increase the building pad size from 60 feet by 65 feet to 60 feet by 70 feet and reduce the rear setback from 30 feet to 25 feet on Lots 16, 21, 22, and 44 through 53 pursuant to Orange County Code, Section 34-27; continued from September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff reviewed the change request and the Development Review Committee's determination of substantial change. Staff stated the DRC recommended approval of the request.

Appearances

The following persons addressed the Board regarding the request:

- Edward Gangwisch, 1241 Semoran Boulevard, Casselberry, Florida, for the applicant.
- R.P. Mohnacky, 1820 Prairie Lake Boulevard, Ocoee, Florida.

Discussion

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

Action

Upon a motion by Commissioner Edwards, seconded by Commissioner Hartage, and carried with all members present and voting AYE by voice vote, the Board approved the request by U S Home Corporation, Inc.; Georgia Cove Preliminary Subdivision aka Orange Ridge PSP; to increase the building pad size from 60 feet by 65 feet to 60 feet by 70 feet and reduce the rear setback from 30 feet to 25 feet on Lots 16, 21, 22, and 44 through 53; which constitutes a substantial change to the development on the above-described property; subject to the following condition:

- **Development shall conform to the Georgia Cove Preliminary Subdivision, dated "Received July 18, 2001," and to the following conditions of approval. Development based upon 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 Board of County Commissioners (BCC), or by action of the BCC.**

ORDINANCE PUBLIC HEARING - AMENDING ORANGE COUNTY CODE, CHAPTER 15, PERTAINING TO TREE PROTECTION AND REMOVAL - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a proposed ordinance providing for tree protection and removal, continued from the September 11, 2001, Board meeting.

Staff Report

Staff reviewed the proposed ordinance and outlined its provisions.

Appearances

The following persons addressed the Board regarding the proposed ordinance:

- Marjorie Holt, 8502 Alverton Avenue, Orlando, Florida.
- James Wade, Jr.; 119 Mount Plymouth Road, Apopka, Florida.
- Alan Rowe, president of First Commercial Bank of Florida, 3544 Country Lakes Drive, Orlando, Florida.
- Bobby Beagles, chairman of Orange County Agricultural Advisory Board, 21301 Fort Christmas Road, Christmas, Florida.
- Charles Roux, 3000 Ivey Drive, Orlando Florida.
- Paul Strawbruger; 2200 Lucien Way, Maitland, Florida; for Taft Holdings, Inc.
- Pat Chisolm, 908 South Delaney Avenue, Orlando, Florida.
- Bob Bomia, 8820 Pine Bay Court, Orlando Florida.
- Whit Duncan, 1120 Bellaire Circle, Orlando Florida.
- Doug Doudney, executive director of Coalition for Property Rights, Inc.; 1442 Buckwood Drive, Orlando, Florida.
- R.P. Mohnacky, 1820 Prairie Lake Boulevard, Ocoee, Florida.
- Paul Linder, Esquire; 28 East Washington Street, Orlando, Florida; for Orange County Farm Bureau.
- Les Hess, 578 Wekiva Landing Drive, Apopka, Florida.
- Ronald Sikes, Esquire; 170 East Washington Street, Orlando, Florida.
- Monty Knox, 4349 North Hiawassee Road, Orlando, Florida.

- Donald Phillips, president of Horizon West, 219 Floral Street, Ocoee, Florida.
- Damien Madsen, 1025 Wilkinson Street, Orlando, Florida.
- Peggy Lantz, 8240 Lake Lucy Drive, Orlando, Florida.
- Geoff Goetz, 9528 Chickasaw Farms Lane, Orlando, Florida.

Discussion

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

Action

A motion by Commissioner Edwards, seconded by Commissioner Hartage, to adopt an ordinance amending Chapter 15 of the Orange County Code pertaining to tree protection and removal; as amended below; failed without a vote (see below for motion to continue).

Action

Upon a motion by Commissioner Edwards, seconded by Commissioner Johnson, and carried with County Chairman Crotty and Commissioners Jacobs, Sindler, Johnson, Edwards, and Hartage voting AYE by voice vote; Commissioner Hoenstine voting NO by voice vote; the Board amended the main motion to change the acreage in Section 15-279(9) from five (5) acres to two (2) acres.

Action

Upon a motion by Commissioner Edwards, seconded by Commissioner Sindler, and carried with County Chairman Crotty and Commissioners Jacobs, Sindler, Hoenstine, and Edwards, voting AYE by voice vote; Commissioners Johnson and Hartage voting NO by voice vote; the Board amended the main motion to strike Subsection (b) from Section 15-279(10).

Action

Upon a motion by Commissioner Hartage, seconded by Commissioner Johnson, and carried with County Chairman Crotty and Commissioners, Jacobs, Johnson, Hoenstine, Edwards, and Hartage voting AYE by voice vote; Commissioner Sindler voting NO by voice vote; the Board amended the main motion to add language

after “property” in Section 15-281(a) to read: “. . . or to facilitate an affordable housing project where a certified affordable housing certificate exists.”

Action

Upon a motion by Commissioner Hoenstine, seconded by Commissioner Jacobs, and carried with County Chairman Crotty and Commissioners Jacobs, Johnson, Hoenstine, and Hartage voting AYE by voice vote; Commissioners Sindler and Edwards voting NO by voice vote; the Board continued the public hearing to consider the proposed ordinance amending Orange County Code, Chapter 15, pertaining to tree protection and removal until November 6, 2001, at 3:30 p.m.

The County Chairman left the meeting.

DEVELOPMENT REVIEW COMMITTEE APPEAL - APPLICANTS/APPELLANTS: SAM GEORGE, ALEXANDER GEORGE, AND VARGHESE ABRAHAM; LOT SPLIT DENIAL; DISTRICT 1 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to sit as a Board of Appeal to consider an appeal by Sam George, Alexander George, and Varghese Abraham, regarding the Development Review Committee's (DRC) decision of denial of June 27, 2001, for approval of Lot Split 2000-166, continued from the September 11, 2001, Board meeting.

Staff Report

Staff reviewed the request and the DRC's decision of denial.

Appearances

The following persons addressed the Board regarding the request:

- Alexander George, the applicant, 527 7th Avenue, Gotha, Florida.
- Kimberly Christoell, 572 Bridge Creek Boulevard, Ocoee, Florida.
- Yvonne Miller, 668 Bridge Creek Boulevard, Ocoee, Florida.

Discussion

The Vice-chairman closed the public hearing and opened the matter for Board discussion.

Action

Upon a motion by Commissioner Jacobs, seconded by Commissioner Hoenstine, and carried with all present members voting AYE by voice vote; County Chairman Crotty was absent; the Board upheld the decision of the Development Review Committee and denied the request by Sam George, Alexander George, and Varghese Abraham for approval of Lot Split 2000-166.

Commissioner Edwards left the meeting.

SUBSTANTIAL CHANGE PUBLIC HEARING - APPLICANT: HANSON, WALTER AND ASSOCIATES, INC.; HIGH POINT PLANNED DEVELOPMENT/LAND USE PLAN (PD/LUP); AMEND LUP; DISTRICT 4 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a substantial change request by Hanson, Walter and Associates, Inc.; High Point Planned Development (PD); to amend the Land Use Plan (LUP), to convert a 60-foot by 660-foot remnant strip of High Point PD labeled as open space to be able to develop in conjunction with the adjacent property to the north with a 27-foot building setback and allow an additional access point (right-in/right-out only) onto Lake Underhill Road, both on condition the two (2) existing billboards located on the adjacent northern property be removed at the end of their current 30-year leases; pursuant to Orange County Code, Section 1207, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff reviewed the change request and the Development Review Committee's determination of substantial change. Staff stated the DRC recommended approval of the request.

Appearances

The following person addressed the Board regarding the request:

- Paul Chipok, Esquire; Gray, Harris & Robinson, P.A.; 301 East Pine Street, Orlando, Florida; for the applicant.

Discussion

The Vice-chairman closed the public hearing and opened the matter for Board discussion.

Action

Upon a motion by Commissioner Hoenstine, seconded by Vice-chairman Sindler, and carried with all present members voting AYE by voice vote; County Chairman Crotty and Commissioner Edwards were absent; the Board approved the request by Hanson, Walter and Associates, Inc.; High Point Planned Development (PD); to amend the Land Use Plan (LUP), as follows:

- An additional right-in/right-out access point on Lake Underhill Road for the Waterford Lakes Animal Hospital.
- The conversion of a 60-foot by 660-foot remnant strip, presently categorized as "Open Space," to developable property in conjunction with adjacent property to the north.
- The reduction of building setbacks from 35 feet to 27 feet for an architectural feature for the Extra Attic DP;

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

- As express consideration for approving the substantial change described above, the two billboards located on the adjacent northern property, more particularly described below, shall be removed at no cost to and without any compensation from Orange County not later than 120 days after the termination of the two current 30-year terms under the two billboard lease agreements entered into on August 13, 2000, between Eagle Holdings Outdoor, LLC (lessee), and Waterford Lakes Self Storage, Inc. (lessor), i.e. both billboards shall be removed not later than 120 days after August 13, 2030. No lease extensions or options may be exercised. (These two billboards are located on separate ten foot (10') by ten foot (10') unsubdivided parcels on a parent parcel described as Orange County Tax ID No. 28-22-31-0000-00012 at 330 O'Berry Hoover Road.) If either or both billboards are destroyed during the 30-year period by a natural disaster or other event or act, neither may be replaced.

BOARD OF ZONING ADJUSTMENT APPEAL - APPLICANT/APPELLANT: CLARENCE REYNOLDS; ITEM 19, AUGUST 2, 2001; DISTRICT 6 - CONTINUED FROM SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to sit as a Board of Appeal to consider an appeal by Clarence Reynolds of the recommendation of the Board of Zoning Adjustment, dated August 2, 2001, on a request by Clarence Reynolds for a special exception in Professional Office District (PO) to convert an existing single-family residence to a church, continued from the September 11, 2001, Board meeting (the legal property description is on file).

Staff Report

Staff outlined the request; identified the subject property and the surrounding zoning classifications; and further, noted that the Board of Zoning Adjustment recommended denial of the request.

Commissioner Edwards rejoined the meeting.

Appearances

The following persons addressed the Board regarding the request:

- Clarence Reynolds, the applicant, 2602 Clearbrook Circle, Orlando, Florida.
- Brenda Reynolds, 2602 Clearbrook Circle, Orlando, Florida.
- Chick Fryar, 6803 River Oaks Drive, Orlando, Florida.
- Patricia Devine, 25 Interlaken Road, Orlando, Florida.

Commissioner Hoenstine left the meeting.

Discussion

The Vice-chairman closed the public hearing and opened the matter for Board discussion.

Action

Upon a motion by Commissioner Hartage, seconded by Commissioner Edwards, and carried with Commissioners Jacobs, Johnson, Edwards, and Hartage voting AYE by voice vote; Vice-chairman Sindler voting NO by voice vote; County

Chairman Crotty and Commissioner Hoenstine were absent; the Board continued the public hearing to consider an appeal filed by Clarence Reynolds of the recommendation of the Board of Zoning Adjustment, dated August 2, 2001, on a request by Clarence Reynolds for a special exception in Professional Office District (PO) to convert an existing single-family residence to a church, until November 6, 2001, at 2 p.m.

Commissioner Edwards left the meeting.

PLANNING AND ZONING COMMISSION APPEAL - APPELLANT/APPLICANT: THOMAS SPENO, LAKE SHEEN HARBOR; CASE Z-00-108, MARCH 15, 2001; DISTRICT 1 - CONTINUED FROM MAY 15, JULY 10, AND SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to sit as a Board of Appeal to consider an appeal by Thomas Speno, Lake Sheen Harbor, to rezone from Rural Country Estate (RCE) (1968) to Single-family Residential (R-1), continued from the May 15, July 10, and September 11, 2001, Board meetings.

Staff Report

Staff outlined the request; identified the subject property and the surrounding zoning classifications; and further, noted that the Planning and Zoning Commission recommended denial of the request.

Appearances

The following persons addressed the Board regarding the request:

- William Winslow, secretary/treasurer of Lake Sheen Estates Homeowners' Association, 10454 Burriss Court, Orlando, Florida.
- Lee Lauderback, president of Lake Sheen Estates Homeowners' Association, 10403 Burriss Court, Orlando, Florida.

Discussion

The Vice-chairman closed the public hearing and opened the matter for Board discussion.

Action

Upon a motion by Commissioner Jacobs, seconded by Commissioner Johnson, and carried with all present members voting AYE by voice vote; County Chairman Crotty and Commissioners Hoenstine and Edwards were absent; the Board upheld

the decision of the Orange County Planning and Zoning Commission and denied the request by Thomas Speno, Lake Sheen Harbor, to rezone from Rural Country Estate (RCE) (1968) to Single-family Residential (R-1) on the above-described property.

LANDFILL PUBLIC HEARING - APPLICANT: BUTTREY DEVELOPMENT TWO, LLC; PERMIT TO CONSTRUCT, OPERATE, AND CLOSE CLASS III LANDFILL; DISTRICT 2 - CONTINUED FROM AUGUST 21 AND SEPTEMBER 11, 2001

By consensus, the Board reopened the public hearing to consider a request by Buttrey Development Two, LLC, for a permit to construct, operate, and close a Class III Landfill continued from the August 21 and September 11, 2001, Board meetings.

Staff Report

Staff outlined the request; identified the subject property; and further, recommended approval of the request subject to conditions.

Court Reporter

A court reporter, Linda Marshall, Accurate Orlando Reporters, was present.

Appearances

The following persons addressed the Board regarding the request:

- John Ladner; Camp, Dresser & McKee (no address given).
- Cecelia Bonifay, Esquire; Akerman Senterfitt, P.A.; 255 South Orange Avenue, Orlando, Florida; for the applicant.
- Henry Pierson (no address given).
- Ben Brown, 150 West Keene Road, Apopka, Florida.
- Geraldine Bostwick, 862 East Bay Street, Winter Garden, Florida.

Discussion

The Vice-chairman closed the public hearing and opened the matter for Board discussion.

Action

Upon a motion by Vice-chairman Sindler, seconded by Commissioner Johnson, with Vice-chairman Sindler and Commissioners Johnson and Hartage voting AYE by voice vote; Commissioner Jacobs voting NO by voice vote; County Chairman Crotty and Commissioners Hoenstine and Edwards were absent; the Board approved the request by Buttrey Development Two, LLC, for a permit to construct, operate, and close a Class III Landfill, on the above described property; subject to the following conditions:

1. Landfill operations shall conform to the Buttrey Development Two, LLC, application for Keene Road Disposal Class III Landfill prepared by Bishop and Buttrey, Inc., of Orlando, Florida, and to the following conditions of approval. Landfill operations based on this approval shall comply with all other applicable federal, state, and county, laws, ordinances, and regulations; County-issued Permit 01-F24-3400, and the State of Florida Department of Environmental Protection (FDEP) issued Permits SC48-0165969-001 and SC48-0165969-002, which are all incorporated herein by reference, except to the extent that these laws, ordinances, regulations, and FDEP permit are expressly modified by these conditions or by direct or approved action of the Board of County Commissioners (BCC). To the extent that conditions of this permit conflict with the FDEP permit, permittee must receive a formal modification of the FDEP permit to comply with the conditions of this permit prior to initiating construction and operation of the landfill.
2. Operations shall be conducted in accordance with the Orange County Solid Waste Management Ordinance (99-16) in its present form, or as amended, during the life of the permit; the approved application prepared by Ed Chesney, P.E.; of Bishop and Buttrey, Inc.; dated March 23, 2001, and all applicable FDEP regulations.
3. Financial assurance in the amount of \$17,089,784.12 will be provided for closure and long-term care by a County-approved bond prior to permit issuance. The face (penal) amount is to be updated annually and kept in force through post closure care to the County's satisfaction, based on the then current cost estimate for closure and long-term care and on the then present conditions of the landfill.

4. **Title commitment insurance for the boundary survey shall be kept in force through the post closure care period.**
5. **The disturbed and unclosed portion of the landfill shall not exceed the size used for the closure/post closure estimates, for any corresponding year, without first amending the closure/post closure instrument to include such additional acreage.**
6. **The applicant (Buttrey Development Two, LLC) shall take title to the property prior to permit issuance. Furthermore, the applicant (Buttrey Development Two, LLC) must execute and record the Notice of Prior Use as a landfill form and agreement to offer donation of real property prior to permit issuance.**
7. **All monitoring wells described in the approved groundwater monitoring plan will be installed and a background evaluation of each well performed prior to accepting waste. The Groundwater Monitoring Report, sealed by a State of Florida registered professional engineer or professional geologist, is to be submitted with each sampling event to Environmental Protection Division (EPD).**
8. **The installation of a six-foot (6') chain link fence, as described in the application, will be completed within 60 days of permit issuance and prior to operation of the landfill.**
9. **All landscaping and signage in the perimeter setbacks described in the application will be completed within six (6) months of permit issuance.**
10. **Natural soil confinement at the site must be restored in accordance with the approved Construction Quality Assurance Plan and the Confinement Restoration Plan; an acceptable Construction Quality Assurance Certification Report provided; the entire pit floor below proposed waste brought to the approved grade, and a topographic survey sealed by a State of Florida registered land surveyor of this pit floor provided to and accepted by EPD prior to accepting waste.**
11. **A cashier's check in the amount of \$79,431, made payable to the BCC shall be provided to EPD prior to permit issuance to cover the County's cost to perform the Quality Assurance/Quality Control (QA/QC) testing, inspections,**

and development of a Construction Quality Assurance Certification Report to assure proper confinement construction has been performed at the site. The above amount is based on a production of three quarters (3/4) acres per day with a 10 percent contingency. Should the County's actual cost be higher, the applicant shall provide a cashier's check, made payable to the BCC, for the deficit amount within one (1) week of the County's request. Should the County's actual cost be lower, any residual funds will be returned to the applicant.

12. The normal post closure care period will be extended in the event that any unresolved remediation issues exist at the time of the normal post closure period until such time as all remediation issues are resolved to the satisfaction of the County.
13. Offsite migration of odors, which are determined by the County to be objectionable, are not permitted and may be grounds for revoking this permit.
14. An updated, certified topographic survey is to be submitted annually, 60 days before the anniversary date of the permit issuance to EPD.
15. Scales are to be installed and kept operational prior to accepting waste and calibrated in accordance with the ordinance referenced in Condition 2 above. Accurate records quantifying material excavated, debris received (by weight, origin and transfer location), and debris landfilled must be maintained in a log of approved format, on site, made available for inspection and reported to EPD quarterly (January 15, April 15, July 15, and October 15 of each year). Materials recycled must be quantified and reported to the Solid Waste Division, Utilities Department, monthly.
16. The turning lane required in the application shall be installed according to Orange County road construction standards and a verification of acceptance by the Orange County Engineering Division, Public Works Department, and provided to EPD prior to commencing operations covered by this permit.

17. Operating hours will be as follows:

Monday-Friday:	7 a.m.- 5 p.m.
Saturday:	7 a.m.-12 noon
Sunday:	Closed

18. A copy of the County Landfill Permit will be posted on site at all times and a copy of the Buttrey Development Two, LLC, application for Keene Road Disposal Class III Landfill will be kept on site and made available for reference by landfill and County personnel.

19. Stockpiling of materials to be recycled for a period longer than six (6) months is not permitted.

20. Applicant agrees to have the non-sudden pollution insurance, referred to in paragraph 6 of the agreement to offer donation of real property, approved by the BCC on April 3, 2001, in place at the time of conveyance of the property to the County.

21. If and when either Orange County or the City of Apopka extends a water line to serve the residents of McQueen Road, the applicant will pay the connection fee for the residents of McQueen Road.

MEETING ADJOURNED

There being no further business, the County Chairman adjourned the meeting at 8 p.m.

ATTEST:

Martha O. Haynie
County Comptroller as Clerk

County Chairman

Deputy Clerk

Minutes Coordinator

THIS PAGE INTENTIONALLY LEFT BLANK