

MEETING OPENED

There being a quorum, the County Mayor called the meeting of the Orange County Board of County Commissioners to order at 9:10 a.m. in Commission Chambers on the First Floor, Orange County Administration Center, on Tuesday, March 29, 2005. The following were present:

- County Mayor Richard T. Crotty
- Commissioners Bob Sindler, Mildred Fernandez, Linda Stewart, Bill Segal, and Homer Hartage
- County Comptroller as Clerk Martha Haynie
- County Administrator Ajit Lalchandani
- County Attorney Tom Drage
- Deputy Clerk Rosilyn Stapleton

Commissioner Teresa Jacobs was absent.

The Board paused for the invocation by the Venerable Thich Tam Thien, Spiritual Leader of Bao An Temple in Orlando; followed by the Pledge of Allegiance to the Flag. The County Mayor presented a certificate of appreciation to the Venerable Thien.

PRESENTATIONS

The County Mayor presented a proclamation designating April 3, 2005, as "Parents' and Children's Day" to Health and Family Services Department Director Larry Jones and Community and Environmental Services Department Director Melvin Pittman.

The County Mayor presented a proclamation designating the week of April 4 through April 8, 2005, as "Public Health Week" to Health Department Director Dr. Kevin Sherin.

The County Mayor presented a resolution recognizing the Hispanic Business Initiative Fund of Greater Orlando to its president, Kirsten Palacios.

COUNTY CONSENT AGENDA

Upon a motion by Commissioner Fernandez, seconded by Commissioner Hartage, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board:

- Deferred County Administrator Item 5 for discussion (see page 433 for subsequent approval).
- Deferred Growth Management Department Items 2 and 3 for a separate vote (see page 433 for subsequent approval);

and further, approved the balance of the County Consent Agenda items as follows, including Growth Management Department Addendum 1:

#### County Comptroller

1. Authorization for execution by the County Mayor of the Agreement for the MSBU for Bay Lakes At Granada. The purpose of the agreement is for the approved Bay Lakes At Granada MSBU for reimbursable common area maintenance and retention pond maintenance (Administrative/Fiscal Division).
2. Authorization for execution by the County Mayor of the Agreement for the MSBU for Crystal Creek. The purpose of the agreement is for the approved Crystal Creek MSBU for reimbursable common area maintenance (Administrative/Fiscal Division).
3. Approval of the minutes of the February 22, 2005, meeting of the Board of County Commissioners (Comptroller Clerk of the Board of County Commissioners).
4. Approval of the payment for the Property Appraiser's third quarter billing (October 1, 2004, through September 30, 2005), in the amount of \$2,612,163.33 (Administrative/Fiscal Division).
5. Adoption of the revised Comptroller Investment Policy. The revisions are necessary for recertification of the Policy by the Association of Public Treasurers (APT) of the United States and Canada's APT Written Investment Policy Certification Program (Administrative/Fiscal Division).
6. Authorize the disbursement of warrants, vouchers, and wire transfers, having been certified that same had not been drawn on overexpended accounts, for periods as follows:

- March 11, 2005, to March 17, 2005; total of \$21,790,360.37
- March 18, 2005, to March 24, 2005; total of \$17,167,557.56

(Finance and Accounting Department).

County Administrator

1. Approval of Budget Amendments 05-24, 05-25, 05-26, 05-27, 05-28, 05-29, 05-30, and 05-31 (Office of Management and Budget).

(Budget amendments are on file in the Comptroller Finance and Accounting Department.)

2. Approval of Budget Transfer 05C-1002 (Office of Management and Budget).

(Budget transfer is on file in the Comptroller Finance and Accounting Department.)

3. Approval of CIP Amendments 05C-9077, 05C-9083, 05C-9088, 05C-9090, and 05C-9091 (Office of Management and Budget).

(CIP amendments are on file in the Comptroller Finance and Accounting Department.)

4. Approval of the Charles E. Brookfield Lodge #86 of the Fraternal Order of Police (FOP) Memorandum of Understanding to increase educational reimbursement to \$1500 per fiscal year. Employees in the FOP bargaining unit who have incurred costs beyond \$1250 since FY 03 April 11, 2004, shall be paid the additional monies provided they are actively employed by Orange County under the FOP contract at the signing of this agreement (Human Resources Division).

5. Approval of the issuance by the Orange County Industrial Development Authority of Tax-Exempt Adjustable Mode Revenue Bonds (Trinity Preparatory School of Florida, Inc., Project), Series 2005, in the aggregate principal amount of \$5,000,000 (Orange County Industrial Development Authority).

(As stated in the above motion, this item was deferred for discussion. See page 433 for subsequent approval.)

6. Receipt and filing of the minutes received by the Agenda Development Office of various advisory board meetings for the official County record (Agenda Development Office).
7. Confirmation of Commissioner Jacobs' appointment of David A. Ontko to the Windermere Water and Navigation Control District Advisory Board with a term expiring December 31, 2006 (Agenda Development Office).
8. Approval of the Membership and Mission Review Board's recommendation of the temporary appointment of City of Orlando Mayor Ernest Page to the Tourist Development Council in the elected municipal official category for the duration of his service as City Mayor (Agenda Development Office).

#### County Attorney

1. Authorization to direct the publisher of the Charter to codify and publish the Orange County Charter as amended at the November 2, 2004, general election.

#### Administrative Services Department

1. Approval to award Invitation for Bids Y5-174-JS, Gasoline and Diesel Fuel, to the low responsive and responsible bidders, Petroleum Traders Corporation and Motiva Enterprises. The estimated contract award amount for Petroleum Traders Corporation is \$11,400,000; and for Motiva Enterprises, it is \$3,300,000 for a 36-month term ([Fleet Management Division] Purchasing and Contracts Division).
2. Approval to award Invitation for Bids Y5-616-NW; Supervisory, Control, and Data Acquisition (SCADA) System Expansion, Phase 2; to the sole responsive and responsible bidder, DCR Engineering Services, Inc. The total contract award amount is \$2,177,484 ([Water Reclamation Division] Purchasing and Contracts Division).
3. Approval to award Invitation for Bids Y5-710-DB, John Young Parkway Segment 2 Sidewalks and Landscaping Project (S.R. 417 to Central Florida Parkway), to the low responsive and responsible bidder, Schuller Contractors, Inc. The total contract award amount is \$763,000 ([Highway Construction Division] Purchasing and Contracts Division).

4. Approval to award Invitation for Bids Y5-712-DB, Clarcona-Ocoee Road Offsite Drainage Bypass Pipe, to the low responsive and responsible bidder, Schuller Contractors, Inc. The total contract award amount is \$193,000 ([Highway Construction Division] Purchasing and Contracts Division).
5. Approval to award Invitation for Bids Y5-714-SB; Orange County Administration Center, Alterations to the 1st, 2nd, and 3rd Floors; to the low responsive and responsible bidder, R.C. Stevens Construction Company, Inc. The total contract award amount is \$2,611,400 ([Capital Projects Division] Purchasing and Contracts Division).
6. Approval to award Invitation for Bids Y5-709-DB, Old Winter Garden Road (east of Hempel Avenue to Friendship Drive) Roadway Reconstruction and Drainage Improvements, to the low responsive and responsible bidder, Hubbard Construction Company. The total contract award amount is \$12,520,814.70 ([Highway Construction Division] Purchasing and Contracts Division).
7. Approval of Amendment 3, Task Authorization 3, Contract Y7-817, Design Services for Wastewater Pump Stations with Camp Dresser and McKee, Inc., in the amount of \$318,568 for a revised contract amount of \$1,246,075 ([Utilities Engineering Division] Purchasing and Contracts Division).
8. Approval of Amendment 22, Contract Y2-136, Countywide Janitorial Services with CleanNet of Central Florida, in the amount of \$806,085.75 for a new contract amount of \$2,340,331.27 ([Facilities Management Division] Purchasing and Contracts Division).
9. Approval and execution by the County Mayor of Lease Amendment between Avalon Island, LLC, and Orange County for office space in the Phoenix Building, Suites 100 and 200, located at 30 South Magnolia Avenue (also known as 69 East Pine Street), Orlando, Florida, District 3 (Real Estate Management Division).
10. Approval of Warranty Deed and authorization to perform all actions necessary and incidental to closing for Chuluota Road (C.R. 419) Cypress Lakes, Road Impact Fee Credit Committee (RIFCC), District 5 (Real Estate Management Division).

11. Approval of Utility Easement and Subordination of Encumbrances to Property Rights and authorization to record instruments for Goldenrod Warehouses, LLC, District 3 (Real Estate Management Division).
12. Approval of Utility Easement and authorization to disburse warrant to pay all recording fees and record instrument for South Orange Blossom Trail Pump Station #3109, District 6 (Real Estate Management Division).

Community and Environmental Services Department

1. Approval of the 2004 Hurricane Assistance Repair Grants as recommended by the Neighborhood Grants Advisory Board and the Parks and Recreation Advisory Board as listed on Attachment A, all districts (Neighborhood Services Division).

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

2. Approval of a 6-month extension of waiver of Permit Condition Number 8, allowing West Orange Environmental Resources, LLC, Landfill to continue operation of the landfill site, subject to adherence to all other applicable conditions of the BCC approved permit, District 1 (Environmental Protection Division).
3. Approval to advertise Resolutions 2005-CED-076 through 2005-CED-085 for Special Assessment Liens on property cleaned by Orange County; pursuant to Orange County Code, Chapter 28, Nuisances, Article II, Lot Cleaning; all districts:

LC05-134; LC05-126; LC05-138; LC05-158; LC05-153; LC05-155;  
 LC05-173; LC05-174; LC05-051; LC05-045

(Code Enforcement Division).

Growth Management Department

1. Approval of the Weatherization Assistance Program (WAP) Agreement between Orange County and the Florida Department of Community Affairs to provide minor home repairs designed to lower utility costs for low-income households, all districts (Housing and Community Development Division).

2. Approval of an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Apostolic Church of Jesus Orlando West, District 2 (Planning Division).

(As stated in the above motion, this item was deferred for a separate vote; see page 433 for subsequent approval.)

3. Approval of an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Center Point Community Church of the Nazarene, Incorporated, District 4 (Planning Division).

(As stated in the above motion, this item was deferred for a separate vote; see page 433 for subsequent approval.)

#### Growth Management Department Addendum 1

4. Approval of the Florida Community Development Block Grant Program Disaster Recovery Initiative Application to be submitted for funding consideration to the Florida State Department of Community Affairs, District 3 (Housing and Community Development Division).

#### Health and Family Services Department

1. Approval of the Community Services Block Grant (CSBG) Agreement Modification between the Florida Department of Community Affairs and Orange County, Florida, in the amount of \$62,992. This increases Orange County's approved budget to \$940,572. There will be no additional cost to the County (Community Action Division).
2. Approval of the renewal Alternative Transportation License for Orlando Regional Healthcare-Mobile Care Transport to provide wheelchair/stretchers services. The term of this certificate is from March 1, 2005, through March 1, 2007. There is no cost to the County (Emergency Medical Services Office).
3. Approval of the renewal Certificate of Public Convenience and Necessity for Greater Orlando Aviation Authority to provide Advanced Life Support Transport Services. The term of this certificate is from April 30, 2005, through April 30, 2007. There is no cost to the County (Emergency Medical Services Office).

4. Approval of the application to license the Rio Grande Head Start Center between the State of Florida Department of Children and Families and Orange County. This application is only executed by Orange County (Head Start Division).

#### Public Works Department

1. Approval of the Agreement between Orange County and Landstar Development Corporation for Traffic Law Enforcement on Private Roads in the gated community of Sandhill Preserve, District 4 (Public Works Department).
2. Approval of the Agreement between Orange County and Pulte Home Corporation for Traffic Law Enforcement on Private Roads in the gated community of Spring Isle, District 4 (Public Works Department).
3. Authorization to record the plat of Earlwood Manor, District 2 (Development Engineering Division).
4. Acknowledge the names of the agreements as they appear on the agreements and reaffirm the approval of the following 2 agreements: "Orange County Developer's Agreement Newbury Park PD" and "Newbury Park PD Development Agreement" (see February 22, 2005, minutes for approval) (Development Engineering Division).
5. Approval of the First Amendment to the Right-of-Way and Road Impact Fee Agreement, Lake Austin PD-Avalon Road for Lake Austin PD to add new parcels to the agreement and to extend the date of conveyance from 120 days to 1 year, District 1 (Road Impact Fee Credit Committee).
6. Approval to install "Stop" signs in La Cascada Phase 1 Subdivision, District 4 (Traffic Engineering Division).
7. Approval to install a "Stop" sign on J. Lawson Boulevard, District 4 (Traffic Engineering Division).
8. Approval of "Stop" and "Yield" sign installations in Oak Landing Unit 2 Subdivision (Traffic Engineering Division).

9. Approval to install a traffic signal at the intersection of Fairway Woods Boulevard and Landstar Boulevard, District 4 (Traffic Engineering Division).

Utilities Department

1. Approval of the First Amendment to the Amended and Restated Orlando Utilities Commission/Orange County Water Service Territorial Agreement, all districts (Administration).
2. Approval of the Release Agreements for Delivery and Use of Reclaimed Water in Favor of the Orlando-Orange County Expressway Authority (OOCEA), District 1 (Engineering Division).

INFORMATIONAL ITEMS\*

County Comptroller

1. Receipt of the following file for the record documents:
  - a. Reedy Creek Improvement District Resolution 447 annexing a parcel of real estate as set forth on Exhibit A.
  - b. Florida Public Service Commission notice of hearing and prehearing re: Joint Petition by Newsouth Communications Corporation; Nuvox Communications, Inc.; KMC Telecom V., Inc.; KMC Telecom III, LLC; and Xspedius Communications, LLC, on behalf of its operating subsidiaries Xspedius Management Company; Switched Services, Inc.; and Xspedius Management Company of Jacksonville, LLC; for arbitration of certain issues arising in negotiation of Interconnection Agreement with BellSouth Telecommunications, Inc.
  - c. Florida Public Service Commission notice of hearing re: Complaint of XO Florida, Inc., against BellSouth Telecommunications, Inc., for alleged refusal to convert circuits to UNES.
  - d. Florida Public Service Commission notice of hearing and prehearing re: petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan by Progress Energy Florida, Inc.

- e. West Orange Healthcare District trustee bond for the following members of the Board of Trustees: Carolyn C. Karraker; Rohland A. June, II; and Lydia Katherine Taylor.
- f. Stoneybrook West Community Development District November 3, 2004, minutes.
- g. West Orange Healthcare District financial statements for the fiscal year ending September 30, 2004.
- h. City of Orlando ordinance notice annexing property located north of Old Winter Garden Road, south of S.R. 408, east of North Mission Road, at 4689 Old Winter Garden Road.
- i. City of Orlando ordinance annexing property located south of Curry Ford Road, west of Conway Gardens Road, at 3500 Curry Ford Road.
- j. City of Orlando ordinance annexing property located south of Curry Ford Road, east of Baldwin Drive, west of Crocker Avenue, at 1621 Baldwin Drive.
- k. City of Orlando ordinance annexing property located at the northeast corner of Mercy Drive and West Princeton Street at 2251 Mercy Drive.
- l. City of Belle Isle Ordinance 05-05 annexing various properties as described therein.
- m. Orange County Library District Comprehensive Annual Financial Report for the fiscal year ended September 30, 2004.

(Comptroller Clerk of the Board of County Commissioners)

- 2. Acknowledgement and filing of the Audit of the Air Pollution Control Trust Fund for Fiscal Year 2003-2004 (Administrative/Fiscal Division).

\*With respect to informational items, Board action is neither required nor necessary, and Board approval (or disapproval) is not to be implied.

COUNTY CONSENT AGENDA ITEMS DEFERRED FOR DISCUSSION

County Administrator

- 5. Approval of the issuance by the Orange County Industrial Development Authority of Tax-Exempt Adjustable Mode Revenue Bonds (Trinity Preparatory School of Florida, Inc., Project), Series 2005, in the aggregate principal amount of \$5,000,000 (Orange County Industrial Development Authority).

Commissioner Hartage requested information on this item. Staff presented a report; Board discussion ensued.

Upon a motion by Commissioner Hartage, seconded by Commissioner Segal, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved the issuance by the Orange County Industrial Development Authority of Tax-Exempt Adjustable Mode Revenue Bonds, Resolution 2005-B-01 (Trinity Preparatory School of Florida, Inc., Project), Series 2005, in the aggregate principal amount of \$5,000,000.

THE FOLLOWING 2 ITEMS WERE CONSIDERED TOGETHER.

#### Growth Management

2. Approval of an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Apostolic Church of Jesus Orlando West, District 2 (Planning Division).

and

3. Approval of an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Center Point Community Church of the Nazarene, Incorporated, District 4 (Planning Division).

Commissioner Segal requested these items be deferred for a separate vote.

Upon a motion by County Mayor Crotty, seconded by Commissioner Stewart, and carried with County Mayor Crotty and Commissioners Sindler, Fernandez, Stewart, and Hartage voting AYE by voice vote; Commissioner Segal voting NO by voice vote; Commissioner Jacobs was absent; the Board approved:

- an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Apostolic Church of Jesus Orlando West
- an Impact Fee Grant in the amount of \$10,000 to be used for the Traffic, Law, and Fire Impact Fees for the Center Point Community Church of the Nazarene, Incorporated

COUNTY ADMINISTRATOR DISCUSSION AGENDA

1. Discussion concerning 7 new deputies and an increase of \$246,120 for the Sheriff's fiscal year 2004-05 operating budget to fund the positions.

Orange County Sheriff Kevin Berry and Chief David Black presented a report and requested approval of this item; Board discussion ensued.

Upon a motion by Commissioner Hartage, seconded by Commissioner Sindler, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board authorized increasing the Sheriff's authorized positions by 7 new court deputies; and further, authorized increasing the Sheriff's fiscal year 2004-05 operating budget in an annualized amount to cover the cost of the additional positions for the remaining 6 months of the budget year.

2. Follow Up Report on the Professional Opportunities Program for Students (POPS) Program.

Staff presented a report; Tina Wells, executive director of the POPS program, addressed the Board contributed to the report; Board discussion ensued.

Upon a motion by Commissioner Sindler, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved the following regarding the Professional Opportunities Program for Students (POPS) Program:

- Placing up to 40 POPS youths in Orange County divisions
- Funding not to exceed \$10,000 for site managers to coordinate the program
- Execution of a contract and/or purchase order with the POPS program for youth summer job placements

3. 2005 Legislative Update.

Staff presented a report on this item; Board discussion ensued. No action was taken.

NONAGENDA-REQUEST TO RESCIND

Commissioner Segal announced his intent that, at the next scheduled Board meeting on April 12, 2005, he will move to rescind the Board's action of March 15, 2005, regarding a resolution concerning proposed House Bill 899 relating to the Ranger Drainage District.

COMMUNITY AND ENVIRONMENTAL SERVICES DEPARTMENT DISCUSSION AGENDA

1. Board discussion and direction on the revised 2005 Field of Dreams Grant Program criteria and use of the remaining Field of Dreams funds, all districts (Parks and Recreation Division).

Staff presented a report and requested approval of this item; Board discussion ensued.

Upon a motion by Commissioner Sindler, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved 2005 Field of Dreams (FOD) criteria; further, authorized use of the remaining FOD funds to fund eligible projects; and further, established a funding cap of \$90,000 per project; as amended below.

Upon a motion by Commissioner Stewart, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved placing "bleacher covers" on the Field of Dreams Qualifying Projects List.

The County Mayor 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 Mayor Richard T. Crotty
- Commissioners, Bob Sindler, Mildred Fernandez, Linda Stewart, Bill Segal, and Homer Hartage
- Senior Assistant County Attorney Joel Prinsell
- Deputy Clerk Rosilyn Stapleton

Commissioner Teresa Jacobs was absent.

#### PRESENTATIONS

The County Mayor presented a proclamation designating the month of April as "Water Conservation Month" to Utilities Water Division Manager Jacqueline Torbert.

The County Mayor accepted the "Summer Sunshine Award" for the Orange County Community Action Summer Food Service Program from Don Arnett, regional administrator, United States Department of Agriculture (USDA) Food and Nutrition Services Southeast Region.

#### NONAGENDA

Commissioner Stewart noted that the County's application to the State for selection of a site for the Central Receiving Center has missed the April 4, 2005, deadline and requested staff to present a report.

Staff presented a report on the possibility of including the Central Receiving Center project in the Florida Community Development Block Grant Program Disaster Recovery Initiative Application to be submitted for funding consideration to the Florida State Department of Community Affairs. Board discussion ensued; no action was taken.

#### MARCH 17, 2005, PLANNING AND ZONING COMMISSION RECOMMENDATIONS

Upon a motion by Commissioner Hartage, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board accepted the recommendations of the Orange County Planning and Zoning Commission under date of March 17, 2005, with the exception of Items Z-04-045 and Z-04-046; subject to the usual right of appeal by any aggrieved party; and further, authorized scheduling a public hearing for Items Z-04-045 in the name of Lindsey S. Phillips for Kellogg Estates PD (fka Clarcona Estates) and Z-04-046 in the name of Lindsey S. Phillips for Old Forty Pines PD (fka Clarcona Pines) on April 19, 2005.

PETITION TO VACATE PUBLIC HEARING-APPLICANT: MARK F. GRANT, BUENA VISTA SHORES, INC.; NO. 04-23, PORTION OF SEVERAL UNNAMED RIGHTS-OF-WAY; DISTRICT 1-CONTINUED FROM NOVEMBER 30, 2004, AND JANUARY 4, 2005

By consensus, the Board reopened the public hearing to consider a request by Mark F. Grant, for Buena Vista Shores, Inc.; Petition to Vacate 04-23, to vacate portions of several unnamed rights-of-way on property lying north of World Center Drive and west of International Drive in the Munger's subdivision; continued from the November 30, 2004, and January 4, 2005, Board meetings (the legal property description is on file).

Staff reviewed the request and the recommendation for approval of the petition to vacate as submitted.

The following person addressed the Board regarding the request:

- Paul Chipok, for the applicant

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

Upon a motion by Commissioner Hartage, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board continued the public hearing to consider Petition to Vacate 04-23 vacating portions of several unnamed rights-of-way until May 10, 2005, at 2 p.m.

ORDINANCE PUBLIC HEARING-ENACTING ORANGE COUNTY CODE, PERTAINING TO TERMS OF THE COMMISSIONERS AND THE COUNTY MAYOR

Notice was given that the Board of County Commissioners would hold a public hearing to consider the following proposed ordinance:

AN ORDINANCE OF ORANGE COUNTY, FLORIDA, PERTAINING TO THE TERMS OF COUNTY COMMISSIONERS AND THE COUNTY MAYOR; PROVIDING FOR TERMS OF COUNTY COMMISSIONERS, COUNTY MAYOR; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

County Attorney Drage reviewed the proposed ordinance and outlined its provisions.

No one appeared regarding the proposed ordinance.

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

Upon a motion by Commissioner Hartage, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board adopted Ordinance 2005-04 enacting Orange County Code, pertaining to terms of the Commissioners and the County Mayor.

PRELIMINARY SUBDIVISION PLAN (PSP) PUBLIC HEARING-WEBER LAKES PLANNED DEVELOPMENT-YOUNG PINES PROPERTY PARCELS 1 AND D PSP, DISTRICT 4

Notice was given that the Board of County Commissioners would hold a public hearing to consider the Weber Lakes Planned Development (PD)-Young Pine Property Parcels 1 and D Preliminary Subdivision Plan (PSP), submitted in accordance with Chapter 65-2015, Laws of Florida, and Article VI of the Orange County Subdivision Regulations; on property generally located south of Curry Ford Road, west of Young Pine Road; Parcel ID 08-23-31-0000-00-004; District 4; Section 08, Township 23, Range 31; Orange County, Florida (the legal property description is on file).

This plan proposes the development of a 49.31-acre site for 4 commercial lots.

Staff reviewed the request and the Development Review Committee's recommendation of approval subject to conditions.

The following person addressed the Board regarding the request:

- Eric Warren, for the developer

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

Upon a motion by Commissioner Stewart, seconded by Commissioner Segal, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved the Weber Lakes Planned Development (PD)-Young Pine Property Parcels 1 and D Preliminary Subdivision Plan (PSP) on the above-described property, subject to the following conditions:

1. Development shall conform to the Weber Lakes PD, Orange County Board of County Commissioners' (BCC) approvals; Young Pine Road Property Parcels 1

and D PSP, dated "Received December 2, 2004"; 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 any applicable county laws, ordinances, and regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.

PSP approval automatically expires on March 29, 2006, in accordance with the Orange County Subdivision Regulations as amended.

2. Prior to construction plan approval, certification with supporting calculations shall be submitted which states that this project is consistent with approved master stormwater management and utility plans for this PD.
3. This property shall be platted prior to the issuance of a Certificate of Occupancy.
4. Billboards and pole signs shall be prohibited. Ground and fascia signs shall comply with Chapter 31.5 of the Orange County Code.
5. Prior to earthwork or construction, an incidental take or relocation permit for gopher tortoises shall be obtained from the Florida Fish and Wildlife Conservation Commission (FWC) and a copy shall be provided to the Orange County Environmental Protection Division, Attention: Development Review Committee (DRC) Representative.
6. Prior to earthwork or construction, the developer shall provide a copy of the completed Florida Department of Environmental Protection National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) for stormwater discharge from construction activities to the Orange County Environmental Protection Division, Attention: NPDES Administrator.
7. Outdoor storage and display shall be prohibited.

PRELIMINARY SUBDIVISION PLAN (PSP) PUBLIC HEARING-BOGGY CREEK PLANNED DEVELOPMENT-WYNDHAM LAKE ESTATES PHASE 2 AND 3 PSP, DISTRICT 4

Notice was given that the Board of County Commissioners would hold a public hearing to consider the Boggy Creek Planned Development (PD)-Wyndham Lakes Estates Phase 2

and 3 Preliminary Subdivision Plan (PSP), submitted in accordance with Chapter 65-2015, Laws of Florida, and Article VI of the Orange County Subdivision Regulations; on property generally located west of Boggy Creek Road, south of Greenway; Parcel IDs 32-24-30-0000-00-003 and 32-24-30-0000-00-004; District 4; Section 32, Township 24, Range 30; Orange County, Florida (the legal property description is on file).

This plan proposes the development of a 469.3-acre site for 727 dwelling units with a minimum living area of 1,350 square feet and 32,000 square feet of commercial uses.

Staff reviewed the request and the Development Review Committee's recommendation of approval subject to conditions.

The following person addressed the Board regarding the request:

- John Florio, for the developer

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

Upon a motion by Commissioner Stewart, seconded by Commissioner Hartage, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board approved the Boggy Creek Planned Development(PD)-Wyndham Lakes Estates Phase 2 and 3 Preliminary Subdivision Plan (PSP) on the above-described property, subject to the following conditions:

1. Development shall conform to the Boggy Creek PD; Orange County Board of County Commissioners' (BCC) approvals; Wyndham Lakes Estates Phase 2 and 3 PSP, dated "Received February 18, 2005"; 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 any applicable county laws, ordinances, and regulations are expressly waived or modified by these conditions, or by action approved by the BCC, or by action of the BCC.

PSP approval automatically expires on March 29, 2006, in accordance with the Orange County Subdivision Regulations as amended.

2. Prior to construction plan approval, certification with supporting calculations shall be submitted which states that this project is consistent with approved master stormwater management and utility plans for this PD.

3. This property lies within Airport Noise Zone "E," and is subject to the Airport Noise Ordinance. All plats associated with the property shall note in 12-point font type the following: "The properties delineated on this plat are subject to aircraft noise that may be objectionable." In addition, all Covenants and Restriction documents associated with the plats must state the following in bold-face type: NOTICE OF AIRPORT NOISE-This property is located within an airport noise zone. Residents will be subject to aircraft noise that may be objectionable.
4. Unless a Conservation Area Impact Permit is approved by the BCC prior to construction plan approval, no conservation area encroachments are permitted.
5. Prior to earthwork or construction, the developer shall provide a copy of the completed Florida Department of Environmental Protection National Pollutant Discharge Elimination System (NPDES) Notice of Intent (NOI) for stormwater discharge from construction activities to the Orange County Environmental Protection Division, Attention: NPDES Administrator.
6. The Covenants, Conditions, and Restriction shall contain language that a portion of this PD is approved for townhomes, commercial, and the road extension to Osceola Parkway. They shall contain a location map that depicts where such land uses are located.
7. Prior to platting, an MSTU shall be established for recreational trail maintenance for trails which range in width from over 5 feet to less than 14 feet in width.
8. A separate Development Plan (including architectural, lighting, landscaping, etc.), shall be submitted for the commercial property. Approval of this project does not waive the requirement for a complete Development Plan submittal.

SUBSTANTIAL CHANGE PUBLIC HEARING APPLICANT: HERBERT S. ZISCHKAU, II;  
EASTWOOD PLANNED DEVELOPMENT/KENSINGTON PARCEL 26 PRELIMINARY  
SUBDIVISION PLAN; AMEND PLAN; DISTRICT 4

Notice was given that the Board of County Commissioners would hold a public hearing to

consider a request by Herbert S. Zischkau, II, Eastwood Planned Development/ Kensington Parcel 26 Preliminary Subdivision, to remove a note on the plan which reads:

"50-foot minimum building setback line from Normal High Water Elevation (NHWE) typical where applicable"

since setbacks from normal high water elevation NHWE are applicable to natural lakes and not to retention ponds as there is no NHWE established for retention ponds. This request involves a total of 39 lots. Twenty lots have been constructed and do not conform to this note on the plan. Lot 36 is currently under construction and as proposed will not conform. Although the homeowners' association has approved this request, adjacent property owners are objecting to the construction due to the note on the plan. The Development Review Committee (DRC) found a substantial change to eliminate the note on the plan would prevent possible title difficulties in the future; pursuant to Orange County Code, Section 34-27; on property generally located south of Golfway Boulevard, east of Woodbury Road; Parcel ID 36-22-31-2318-00-360; District 4; Section 36, Township 22, Range 31; Orange County, Florida (the legal property description is on file).

A court reporter, Candace Gabeletto, Zacco & Associates, was present.

Staff reviewed the change request and the DRC's determination of substantial change; and further, stated the DRC recommended approval of the request.

The following persons addressed the Board regarding the request:

- Herbert Zischkau, the applicant
- Morris Davis, area resident
- Mannie Overton, area resident
- Angela Semonic, area resident
- Dan Hawkins, area resident
- John Menendez, area resident
- Shellie Overton, area resident
- Frank Russo, area resident
- Brady Bebehouse, area resident
- Melanie Kirtland, attorney for the area residents
- Roland Okasta, attorney for the area residents
- Mike Schultz, contractor for the property owner

The County Mayor accepted the following exhibits from Mr. Zischkau:

- Clerk's Composite Exhibit 1, 3 site plans
- Clerk's Exhibit 2, list of lots abutting waterbody

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

A motion by Commissioner Stewart to deny the request by Herbert S. Zischkau, II; Eastwood Planned Development (PD)/Kensington Parcel 26 Preliminary Subdivision (PSP); to remove a note on the plan which reads: "50-foot minimum building setback line from the Normal High Water Elevation (NHWE) typical where applicable"; which constitutes a substantial change to the development on the above-described property died for the lack of a second.

Upon a motion by Commissioner Sindler, seconded by Commissioner Fernandez, and carried with County Mayor Crotty and Commissioners Sindler, Fernandez, Segal, and Hartage voting AYE by voice vote; Commissioner Stewart voting NO by voice vote; Commissioner Jacobs was absent; the Board made a finding of consistency with the Comprehensive Policy Plan; and further, approved the request by Herbert S. Zischkau, II; Eastwood Planned Development (PD)/Kensington Parcel 26 Preliminary Subdivision (PSP); to remove a note on the plan which reads: "50-foot minimum building setback line from the NHWE typical where applicable"; which constitutes a substantial change to the development on the above-described property; subject to the following conditions:

1. All previous conditions of approval shall apply
2. Maximum height for the pool screen enclosure on Lot 36 is 25 feet.

PLANNING AND ZONING COMMISSION BOARD-CALLED PUBLIC HEARING-APPLICANT:  
JOHN W. MILLER, GRAND CYPRESS RESORT; CASE Z-04-127, FEBRUARY 17, 2005;  
DISTRICT 1

Notice was given that the Board of County Commissioners would hold a public hearing to consider a request by John W. Miller, Grand Cypress Resort Planned Development, to rezone from Country Estate District (R-CE) (1968), Residential District (R-2) (2000), and Multiple-family Dwelling District (R-3) (1989), to Planned Development District (PD), on

property generally located west and east sides of Winter Garden Vineland Road; Multiple parcels located in District 1; Sections 9, 16, 17, and 21, Township 24, Range 28; Orange County, Florida (the legal property description is on file).

Staff outlined the request and identified the location of the subject property, the surrounding zoning classifications and the future land use map designations in the area.

The following person addressed the Board regarding the request:

- Nick Pope, for the applicant

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

Upon a motion by Commissioner Segal, seconded by Commissioner Fernandez, and carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board made a finding of consistency with the Comprehensive Policy Plan; and further, approved the request by John W. Miller, Grand Cypress Resort Planned Development PD), to rezone from Country Estate District (R-CE) (1968), Residential District (R-2) (2000), and Multiple-family Dwelling District (R-3) (1989), to Planned Development District (PD), on the above described property; subject to the following conditions:

1. Development shall conform to the Grand Cypress Resort PD, Orange County Board of County Commissioners (BCC) approvals; Land Use Plan (LUP) Amendment 6, dated "Received January 11, 2005"; 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 BCC, or by action of the BCC.
2. The uses, densities, and intensities, and all of the conditions of approval of the PD/LUP have been negotiated and agreed to by both the applicant and the County. The PD/LUP constitutes an agreement between the parties. The applicant and the applicant's successors in interest have the contract right to develop the PD with the uses, densities, and intensities approved by the County, subject to the restrictions and requirements in the conditions of approval, and neither the applicant nor the County shall have the right to rezone or downzone

the property, or otherwise alter the uses, densities, and intensities, or to delete, waive, or amend any condition of approval except through an amendment to the PD/LUP that is negotiated by both parties.

3. Billboards and pole signs shall be prohibited.
4. Outdoor storage and display shall be prohibited.
5. A waiver of Section 38-1254(2) is granted to allow a 25-foot setback from S.R. 535.

BOARD OF ZONING ADJUSTMENT APPEAL-APPELLANT/APPLICANT: RADIKA R. SINGH;  
ITEM 4 CONTINUED, FEBRUARY 3, 2005; DISTRICT 2

Notice was given that the Board of County Commissioners would sit as a Board of Appeal to consider an appeal by Radika R. Singh of the recommendation of the Orange County Board of Zoning Adjustment, dated February 3, 2005, on a request by Radika R. Singh, Julie's Retirement Resort, Inc., for a special exception in Residential Urban District (R-1AAAA) (single-family 1/2-acre lots) zone to construct a 6,252 square-foot community residential home for up to 12 clients (senior citizens) and a variance to allow 10 parking spaces in lieu of 24 spaces. The property is generally located on the west side of North Apopka-Vineland Road, 1/4 mile north of Silver Star Road; Parcel ID 15-22-28-4716-00-050; District 2; Section 15, Township, Range 28; Orange County, Florida (the legal property description is on file).

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

The following persons addressed the Board regarding the request:

- Radica Singh, the applicant
- Benjamin Garcia, Jr., area resident
- Nan Wallace, area resident

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

Upon a motion by Commissioner Sindler, seconded by Commissioner Fernandez, and

carried with all present members voting AYE by voice vote; Commissioner Jacobs was absent; the Board upheld the decision of the Orange County Board of Zoning Adjustment and denied the request by Radika R. Singh for a special exception in Residential Urban District (R-1AAAA) (single-family 1/2-acre lots) zone to construct a 6,252 square-foot community residential home for up to 12 clients (senior citizens) and a variance to allow 10 parking spaces in lieu of 24 spaces on the above-described property.

NONAGENDA

Commissioner Hartage announced he will distribute a memo to the commissioners regarding management of their reception desk.

MEETING ADJOURNED

There being no further business, the County Mayor adjourned the meeting at 5:45 p.m.

ATTEST:

Martha O. Haynie  
County Comptroller as Clerk

\_\_\_\_\_  
County Mayor

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

\_\_\_\_\_  
Minutes Coordinator