

**BOARD OF COUNTY COMMISSIONERS MEETING
TUESDAY, DECEMBER 2, 2008 – 9:32 A.M.
ASSEMBLY ROOM, FIFTH FLOOR
315 COURT STREET, CLEARWATER, FLORIDA**

Members Present: Calvin D. Harris, Chairman; Karen Williams Seel, Vice-Chairman; Susan Latvala; John Morroni; Kenneth T. Welch; Nancy Bostock; and Neil Brickfield.

Others Present: James L. Bennett, County Attorney; Robert S. LaSala, County Administrator; Clarethia N. Harris, Chief Deputy Clerk; and Tammy L. Burgess, Deputy Clerk.

INVOCATION: Father Patrick Irwin, St. Cecelia Catholic Church, Clearwater

PLEDGE OF ALLEGIANCE: Commissioner Latvala.

PRESENTATIONS AND AWARDS: None.

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

COUNTYWIDE PLANNING AUTHORITY PUBLIC HEARING

1 First public hearing held on proposed ordinance amending the Countywide Future Land Use Plan Rules to provide regulations addressing development agreements submitted in support of applications for amendments to the Countywide Future Land Use Plan Map. Staff recommended approval of the proposed ordinance. No correspondence has been received.

Rick MacAulay, City of St. Petersburg Development Services Department, stated that the City's practice has always been to submit a development agreement to the Pinellas Planning Council (PPC) and the Countywide Planning Authority (CPA) for informational purposes only; and that the City is opposed to the proposed Rule amendment as it is the City's belief that the Special Act does not provide the PPC and the CPA with the authority to adopt the proposed amendment; whereupon, he requested that St. Petersburg City Council Resolution No. 2008-589 be made part of the record.

Pinellas Planning Council Executive Director David P. Healey related that while there is no obligation for local governments to submit development agreements, there has been an increase in the number of development agreements submitted by applicants in support of proposed plan amendments; and that there is a need for a definitive policy governing the process by which development agreements are submitted for consideration and then are

subsequently changed. He indicated that the CPA typically relies on development agreements when making decisions whether to approve a plan amendment; and that there should be an opportunity for the PPC to review any changes to a development agreement and to determine if those changes would necessitate reconsideration of the plan amendment by the CPA.

Responding to query by Commissioner Brickfield, Mr. Healey indicated that he believes counties without a planning council may handle development agreements at the local level without any oversight; but that the City of St. Petersburg is requesting the authority to address changes to development agreements through local government action, without input from the PPC and the CPA, and for the action to be ratified in the form of an amendment to the Countywide Plan. Planning Director Brian K. Smith indicated that development agreements support cases where the proposed amendment would otherwise be denied; that there is a risk that if the development agreement is changed, the land use change could be reversed or revoked; and that the Local Planning Agency (LPA) recommends approval of the process; whereupon, he noted that today's hearing is the first of two public hearings; and that the second public hearing is scheduled for December 16, 2008.

Assistant County Attorney Jewel White Cole stated that she serves as legal counsel to the PPC; and indicated that the Special Act, while providing some limitation, gives the PPC and the CPA broad authority and latitude regarding Countywide Future Land Use functions, specifically, to pass rules to administer, implement, and amend the Countywide Future Land Use Plan. Alluding to comments made by Mr. MacAulay, she indicated that the PPC and the CPA are not seeking to become parties to development agreements; that development agreements are highly persuasive documents, not merely information, which the CPA considers in making its decision to grant an amendment; that development agreements typically provide limitations as to the range of uses allowed within a Plan category; and that it is possible for a more intense use than was intended, when approved, to be placed on the property if the local government has the authority to approve changes to development agreements without bringing the changes before the CPA; whereupon, Commissioner Welch indicated that the proposed ordinance assures that decisions made based on development agreements will be what is used for the development of the subject parcel, and Commissioner Brickfield expressed his concerns regarding more intense uses on properties if the proposed ordinance is not adopted.

In response to query by Commissioner Welch, Mr. MacAulay stated that it is the City of St. Petersburg's position that it should be left up to the local government to decide if the map amendment should remain, revert back to its original category, or change to a lesser category; and that the local government should be allowed to deliberate the changes and

hold the two public hearings required before the matter is ever brought back to the PPC and the CPA; whereupon, he noted that the City Attorney's Office is not represented at today's hearing, but will be present at the second public hearing, and discussed ensued.

Following discussion, it was the consensus of the Board that the proposed ordinance solidifies the Board's position that the agreement presented to the CPA needs to be the agreement that will be executed because the CPA will rely on that agreement when making its decision; and that it is reasonable to have any amended development agreements, previously approved by the CPA, come back through the process for final input by the CPA; whereupon, Attorney Bennett noted that land use amendments can be approved without development agreements; and that there is still flexibility in determining whether or not, and to what extent, the development agreement is critical to the decision-making process.

Responding to the Chairman's request for individuals wishing to be heard, Mark P. Klutho, Largo, appeared and expressed his concerns.

BOARD OF COUNTY COMMISSIONERS PUBLIC HEARINGS

2 Private dock Application No. P39406-08 submitted by Mike Gross, 1723 Sanctuary Place, Crystal Beach (Sutherland Bayou) approved; no correspondence has been received; no citizens appeared to be heard; the biological report has been filed as part of the record; and approval is subject to the following conditions:

1. The pier is not to have any lower landings at any time.
2. The entire terminal head of this pier is to be railed. The rail must be of standard height for a handrail and have a midrail halfway between the top rail and deck surface.
3. The pier surface is to be elevated to a height of five feet above Mean High Water.
4. The use of this structure to accommodate the loading or off loading or the mooring of vessels with motors is strictly prohibited.
5. It is expected that some mangrove trimming will be necessary during initial installation of the walkout. Mangrove trimming/removal during construction must be limited to the footprint of the structure. Future trimming of mangrove branches which overhang the deck surface and are within eight vertical feet of the deck surface is allowed without further approvals from the County. All other mangrove trimming must be consistent with the mangrove trimming criteria in the Pinellas County Code.

6. The pier is subject to periodic inspection by the Department of Environmental Management in order to review for compliance with these conditions.

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

3 TEFRA public hearing held and Resolution No. 08-205 adopted approving issuance of not to exceed \$3,250,000.00 Pinellas County Industrial Development Authority Industrial Development Revenue Bonds, Series 2008, on behalf of R’Club Child Care, Inc., pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended. No correspondence has been received. No citizens appeared to be heard.

Motion - Commissioner Latvala
Second - Commissioner Welch

Mr. LaSala stated that the issuance amount is \$50,000.00 higher than the amount approved by the Board in the request to advertise the public hearing; and that the correct issuance amount was properly advertised.

Vote - 7 – 0

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Deviating from the agenda, Agenda Item No. 28 was heard at 10:33 A.M.

#28 Sitting as the Pinellas County Industrial Development Authority the Board adopted Resolution No. 08-206 approving issuance of not-to-exceed \$3,300,000.00 in Pinellas County Industrial Development Authority Revenue Bonds (R’Club Child Care, Inc. Project), Series 2008, setting forth the terms and conditions of the financing, and approving all documents (Companion Item No. 3).

Motion - Commissioner Brickfield
Second - Commissioner Welch

Responding to query by Commissioner Welch, Mr. LaSala confirmed that the amount is \$3,300,000.00 as noted under Item No. 3, not \$3,250,000.00 as shown on the agenda.

Vote - 7 – 0

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- # 4 Amendment to the Bayside Master Project development agreement entered into by and between Bayside Apartment Homes, LLC, a Florida Limited Liability Company (“Bayside Apartment”), Bayside Reserves, Inc., a Florida Corporation (“Bayside Reserves”), and Pinellas County, Florida (Z/LU-3-8-07) approved, pertaining to several parcels of land comprising approximately 23 acres located on the east and west sides of 49th Street, lying primarily north of 162nd Avenue north (33/29/16/70380/100/0300, 0400, 0500, 2000, 1200), and including a building height not-to-exceed 55 feet for the proposed apartment buildings, with a maximum unit count of 156 residential units, inclusive of a 50 percent affordable housing density bonus on the western parcel, and a maximum height of 45 feet for the proposed 37 residential units on the eastern parcel, for a total net project density of 9.69 units per acre, to supersede the development agreement recorded at Official Records Book 16338, Page 1055, in the Public Records of Pinellas County, Florida. One letter in opposition has been received. Correspondence submitted for the Planning and Zoning Examiner’s Hearing, the meeting of the Local Planning Agency, the July 22, 2008 meeting of the Board of County Commissioners, and the October 21, 2008 meeting of the Board of County Commissioners includes two letters and a petition containing 52 signatures, one letter and a petition containing 129 signatures, one letter and a petition containing 325 signatures, a petition containing 133 signatures, and two letters in opposition to the application.

Planning Department Zoning Manager John F. Cueva referred to an aerial photograph, identified the location of the subject property, and indicated that the zoning and land use application was approved by the BCC in July along with a development agreement that has been recorded, subject to further review and approval by the Pinellas Planning Council (PPC) and the Countywide Planning Authority (CPA); that the PPC held a public hearing in September and recommended denial of the application; that a public hearing was held before the CPA in October and the CPA approved the zoning and land use application conditioned on the applicant/developer submitting an amended development agreement reflecting the changes recommended during the hearing; that, at the request of the applicant/developer, the development agreement portion of the application was continued; that the amended development agreement was not presented at a public hearing before the PPC; and that at the Local Planning Agency (LPA) public hearing held in November, the applicant/developer submitted an amended development agreement, and the LPA recommended denial of the development agreement; whereupon, he related that County Planning staff is recommending approval of the amended development agreement.

Responding to comments and queries by the members as to the identity of the LPA and how its recommendation comports with the County Planning staff recommendation, Mr. Cueva indicated that the LPA consists of Planning Director Brian K. Smith and two

Planning Department managers; whereupon, Mr. Smith indicated that the LPA is a current Board, not connected with staff, that has been in existence for a couple of years; that the Board was created as an interim arrangement, until a lay Board can be established, to make judgments for consistency on matters that change the Land Use Plan and to allay concerns regarding Land Use changes being made in the Sunshine. He explained that the Planning Department staff makes a recommendation and presents it to the LPA at a public hearing; and that, as in this case, the LPA can very possibly make a different determination than the Planning Department staff as it is a different decision-making process and the LPA has the benefit of the public hearing. Mr. Smith confirmed that he and the two Planning Department managers are opposed to the development agreement and, sitting as the LPA Board, had recommended denial; that they were also opposed to and recommended denial of the land use case, though his staff had recommended approval; and that General Planning Administrator Gordon Beardslee, Planning Section Manager Elizabeth S. Freeman, and Mr. Cueva are the Planning Department staff recommending approval; whereupon, in response to query by Commissioner Brickfield, Attorney Bennett confirmed that the interim arrangement, as set up by the County Attorney's Office, is legal but that the preferred recommendation is that a lay Board be put in place, which would solve the perception problem and allow the Planning Department management and staff to work together.

In response to comments and queries by Commissioner Morroni, Mr. Cueva, with input by Director of Public Works and Transportation Peter J. Yauch and Attorney Bennett, indicated that a response regarding the traffic concerns has not been received from the Florida Department of Transportation (FDOT), as requested at the previous BCC hearing; and that staff has not contacted FDOT; whereupon, Commissioner Morroni indicated that the anticipated FDOT response entered into the decision to approve the application at the last hearing; and that in the future, on an issue as important as this, he will not vote to approve unless he has enough information to make an informed decision.

Dennis G. Ruppel, Johnson, Pope, Bokor, Ruppel, & Burns, P.A., stated that he represents Bayside Apartments, LLC and Bayside Reserves, Inc. and requested that the records of the two prior hearings be incorporated in the record of today's hearing. He provided a brief overview of the matter to date and indicated that the scope of today's hearing is the approval of the amended development agreement; that the changes reduce the impact of the development on the surrounding neighborhood and, in his opinion, do not require further input by the PPC; whereupon, he summarized the eight changes made to the development agreement to address the concerns of the neighborhood and the PPC, noting that the master plan, attached to the development agreement, has been amended to reflect the changes.

Robert Pergolizzi, Gulf Coast Consulting, Inc., referred to the County's Comprehensive and Countywide Plans, and stated that the proposed project is consistent with the goals, objectives, and policies presented in those plans. Noting that the project will be located in an area characterized as mixed-use, he provided information regarding compatibility, existing uses in the area, and the reduction in living units and building height; and noted that the master plan addresses the issue of compatibility; that the setbacks have been increased well above those required; that some surface parking has been removed to increase the landscape buffer to the adjoining property; and that the master plan addresses the concerns of both the PPC and the neighbors.

Commissioner Welch noted that only 39 of the 193 units will be affordable housing; whereupon, Mr. Ruppel provided input relating to the ordinance requirements regarding Area Median Income (AMI) for affordable units and Commissioner Seel indicated that the agreement reflects that the targeted range is 60 percent of AMI for rental units and 80 percent of AMI for ownership units.

Referring to the concerns of the PPC with respect to traffic, Mr. Pergolizzi indicated that the amended development agreement requires roadway improvements to local and substandard roads and contribution to improvements at the intersection of Roosevelt Boulevard and Bolesta Road, including a four-way traffic signal at the intersection which was approved by the Florida Department of Transportation (FDOT) in May 2008 and is documented; that the four-way traffic signal would be in addition to the existing signal at the Bayside Bridge; that the amended development agreement resolves the existing traffic problems in the neighborhood that are mainly due to cut-through traffic; that the revised plan reflects a 15 percent reduction in daily trips as compared with the plan as originally presented; and that the project satisfies the County's desire for affordable housing close to employment centers; whereupon, Messrs. Pergolizzi and Ruppel related that the subject parcels are outside of the congested corridor associated with 49th Street and Roosevelt Boulevard; that the trips generated by the project affecting the corridor represent less than one percent of the capacity, as represented in Mr. Yauch's September 15, 2008 letter to FDOT; that ramp improvements to 49th Street and the installation of the four-way traffic signal at the intersection of Roosevelt Boulevard and Bolesta Road will provide a safer operating environment and will also reduce congestion along 162nd Avenue; and that FDOT's main concern is the capacity of the roadway.

During discussion and in response to comments and queries by Commissioner Morroni as to the impact of the four-way traffic signal on traffic flow through the intersection, Messrs. Pergolizzi and Yauch indicated that a traffic study will be conducted; that the traffic signal will be coordinated with the existing signal at the Bayside Bridge/49th Street off-ramp to progressively move traffic; that it will be an actuated signal with sensors to

detect side street traffic demand; and that the corridor will be part of the Intelligent Transportation System (ITS) in the future; whereupon, Mr. Yauch discussed the “green-to-capacity” ratio used to calculate roadway levels of service and provided input on potential future road improvements and ramp modifications.

Responding to the Chairman’s request for citizens wishing to be heard, the following individuals appeared, expressed their concerns, and responded to queries by the members:

Richard N. Shott, Clearwater (provided documents)
Bill Medernach, Clearwater
Sheila Gantt, Clearwater
David Waddell, Clearwater
Alan J. Waldauer, Clearwater

In response to comments by the objectors, Mr. Ruppel referenced the 100-year floodplain and the recent Evaluation and Amendment Report (EAR) amendments, noting that the five unit maximum provision has been removed from the Comprehensive Plan and that the EAR-based amendments are the controlling provisions. He stated that concerns raised regarding traffic, environmental issues, and plan amendments have already been addressed and are not part of today’s hearing; that all of the Comprehensive Plan elements were taken into consideration by the Board several years ago when it made the determination to designate the County-owned parcel for affordable housing; and that the concerns regarding stormwater are premature and will be addressed during the site plan process.

Discussion ensued and in response to comments and queries by Commissioners Welch and Morroni, Messrs. Pergolizzi and Yauch indicated that the developer of the Roosevelt Commons Office Park is responsible for the installation of the traffic signal and intersection improvements at Roosevelt Boulevard and Bolesta Road; that obtaining approval of the location and installation of the traffic signal from the FDOT Access Management Committee was only the first step in a very long process; that the ultimate authority over the traffic signal lies with the state; that the County has an agreement with the state to operate traffic signals on state roads as part of the ITS and computerized traffic control system; and that the County will address the signal timing; and in response to concerns raised by Commissioner Brickfield regarding the existing congestion at the intersection, Mr. Yauch indicated that the intersection has some unusual phasing characteristics and the phasing of the signal is being reviewed for possible improvements.

Thereupon, following discussion, Commissioner Seel moved, seconded by Commissioner Latvala and carried, that the amended development agreement be approved.

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

CITIZENS TO BE HEARD

Bert Valery, Indian Rocks Beach, re Freedom Trail
 Barbara Sheen Todd, St. Petersburg, re Freedom Trail
 Lenore Faulkner, Madeira Beach, re Pinellas County Schools
 Mark P. Klutho, Largo, re stupidity, waste.

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At this time, 11:54 A.M., Commissioner Seel left the meeting.

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CONSENT AGENDA ITEMS NOS. 5 THROUGH 15 – APPROVED WITH THE EXCEPTION OF ITEM NO. 13b, WHICH WAS CONSIDERED UNDER ITEM NO. 16.

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

5 Minutes – None.

6 Reports received for filing:

- a. Capital Improvement Program, Six-Year Work Plan, Fiscal Year 2009 through Fiscal Year 2014, Pinellas County, Florida.
- b. Pinellas County Clerk of the Circuit Court Annual Budget for Fiscal Year 2008-2009.
- c. Internal Audit Division, Clerk of the Circuit Court, Report No. 2008-08 dated October 30, 2008 – Audit of Telecommunication PBX/Phone Processes.
- d. Internal Audit Division, Clerk of the Circuit Court, Report No. 2008-09 dated October 30, 2008 – Audit of Personnel Department Authorized But Unfilled Positions.
- e. Internal Audit Division, Clerk of the Circuit Court, Report No. 2008-10 dated November 6, 2008 – Audit of IT-Disaster Planning.
- f. Internal Audit Division, Clerk of the Circuit Court, Report No. 2008-11 dated November 6, 2008 – Audit of Information Technology ACF2 Mainframe Security Software.

- g. Internal Audit Division, Clerk of the Circuit Court, Report No. 2008-12 dated November 6, 2008 – Audit of Facility Management Maintenance and Service Contract Administration.
 - h. Dock Fee Report for the month of October 2008.
- # 7 Vouchers and Bills Paid - Period of October 20, 2008 through October 31, 2008:
- Payroll Journal Expenditures
Payroll Journal page numbers 1 through 2480 (period October 27 through 31)
Payroll checks numbered 559524 through 559739 (period October 27 through 31)
- Imprest Fund Expenditures
Manual checks numbered 751518 through 751528
System checks numbered 944575 through 946292
- ACH Transfers numbered 1201 through 1276
- Wire Transfers numbered 010772 through 010782
- # 8 Miscellaneous items received for filing:
- a. Florida Public Service Commission Order No. PSC-08-0625-PCO-EI suspending tariffs for Progress Energy Florida Inc. and ordering that the docket remain open.
 - b. Communication from Southwest Florida Water Management District re Draft Five-Year Water Resource Development Work Program.
 - c. City of Seminole Ordinance No. 26-2008 effective October 28, 2008, voluntarily annexing certain property.
- # 9 Bid of SAK Construction, LLC rejected on the basis of not meeting the pre-qualification requirements. Award of bid to Insituform Technologies, Inc. for Madeira Beach Collection System Improvements Sanitary Sewer Cured-in-Place Pipelining (Project No. 1982, Bid No. 089-0003-C) accepted in the amount of \$1,158,905.00 on the basis of being the lowest responsive, responsible bid received meeting specifications; Chairman authorized to sign and the Clerk to attest after proper execution of the agreement by the contractor and written approval as to form by the Office of the County Attorney.
- #10 Amendment No. 2 to the Master Lease Agreement with Suntrust Equipment Finance & Leasing Corp. for the generator lease program (Contract No. 056-0045-B) approved, providing updated hurricane preparedness through the replacement and standardization of emergency generators throughout the County; Chairman authorized to sign the amendment and the Incumbency Certificate and the Clerk to attest (Fleet Management).

- #11 Approval of Ratification and Acceptance of Department of Justice Grant Award for the Pinellas County Forensic Laboratory DNA Expansion Project (Award Number 2008-DD-BX-0602) in the amount of \$661,818.00 for Fiscal Year 2008 (Justice and Consumer Services).
- #12 Contract for Law Enforcement Services between the City of Indian Rocks Beach, Jim Coats as Sheriff of Pinellas County, and Pinellas County for the period from October 1, 2008 through September 30, 2009, in the amount of \$803,638.28 approved, reflecting an approximate decrease of 0.09 percent in service costs; Chairman authorized to execute (Justice and Consumer Services).
- #13a Resolution No. 08-207 adopted appropriating an unanticipated beginning fund balance in the Fiscal Year 2009 General Fund budget in the amount of \$150,000.00 earmarked for a particular purpose and transfer to the Air Quality Pollution Recovery cost center of Environmental Management (Grants and Aids) (Management and Budget).
- #13b See Item No. 16.
- #14 Resolution No. 08-208 adopted appropriating earmarked receipts (Reserve for Future Years) for a particular purpose in the Fiscal Year 2009 Utilities Sewer Interest and Sinking Fund in the amount of \$160,000.00 (Management and Budget).
- #15 Sitting as the Emergency Medical Services Authority, the Board approved execution of a Certificate of Public Convenience and Necessity to Express Medical Transporters, Inc., to provide non-medical wheelchair transport services in Pinellas County.
- #16 Items for discussion from Consent Agenda (County Administrator and Clerk of Circuit Court).
- #13b Resolution No. 08-209 adopted supplementing the Fiscal Year 2009 General Fund budget (unanticipated fund balance in the amount of \$714,850.00) to appropriate earmarked receipts for a particular purpose and transfer to the General Government-MSTU cost center budget (Recreation Grant Program) (Management and Budget).

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Commissioner Seel returned to the meeting at 11:59 A.M.

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Responding to queries by Commissioner Brickfield, Assistant County Administrator Elizabeth A. Warren related that the Recreation Grant Program was discontinued in 2007; that approximately 15 grants remain open for projects under construction; that a few may be discontinued because the programs have ended; that the subject grants are not related to the Recreational Reimbursement Program, which has ended; that legal agreements exist with the recipient organizations; and that an update on the grants can be provided.

In response to further query by Commissioner Brickfield, Assistant County Administrator Mark S. Woodard explained the budgetary procedure for rollover of unexpended funds from one fiscal year to the next, recognizing the purpose for which they were originally intended, in accordance with Chapter 129, Florida Statutes.

Motion	-	Commissioner Welch
Second	-	Commissioner Latvala
Vote	-	7 - 0

- #17 Change Order No. 6 (final) to the contract with Skanska USA Building, Inc. for construction management services for the Jail Expansion Phase II Health Care Facility (PID No. 613) approved increasing the contract by \$1,932,694.34 (\$432,694.34 for scope changes and \$1,500,000.00 for settlement of a claim for costs associated with changes and additions to the project) for a revised agreement amount of \$26,974,827.63; time extension of 504 days granted, waiving liquidated damages totaling \$752,472.00; contract accepted as complete; remaining retainage released; and the Chairman authorized to sign and the Clerk to attest.

Motion	-	Commissioner Bostock
Second	-	Commissioner Welch

Responding to query by Commissioner Seel, Director of Public Works Peter J. Yauch related that the project began under the direction of the General Services Department; and that the Director has since retired; whereupon, Senior Assistant County Attorney Joseph A. Morrissey indicated that the Project Engineer has also left the County; that L. Robert Kimball & Associates, Inc. remains the architect of record; that the Kimball contract remains open, with retainage, pending further discussions with his office and the Administrator's Office.

Discussion ensued wherein Commissioner Seel suggested that a work session be held to discuss the lessons learned on this project and resulting changes that have been made to County processes; whereupon, she requested that the County convene a meeting of local

architects and contractors to review the processes to ensure that the best practices have been put into place. Chairman Harris noted that the Board must question the need before proceeding on projects; and Commissioner Latvala acknowledged the dire situation which existed at the jail, but indicated that problems were created by proceeding prematurely.

Responding to query by Chairman Harris, Mr. LaSala noted that the County will consider past performance when evaluating companies to provide professional services; whereupon, he thanked Mr. Yauch and his staff for their efforts in analyzing the Jail Expansion project and applying lessons learned to current specialty building projects; and stated his commitment to prevent similar problems on future Capital Improvement Plan projects. In response to query by Commissioners Morroni and Seel, Messrs. Yauch and LaSala clarified that approval of the subject change order will close the contract with Skanska only and that other contracts pertaining to the project remain open at this time; and Mr. Yauch provided a breakdown of items and costs included in the change order.

Vote - 7 - 0

- #18 Amendment No. 2 to the Agreement with TBE Group, Inc. for Consultant Services for Improvements to Bryan Dairy Road (County Road 296) from Starkey Road to 72nd Street North (PID No. 920588) approved providing for additional design consultant services and contingency compensation associated with the property acquisition process in the amount of \$106,062.00 (revised agreement amount, \$1,043,831.00); Chairman authorized to sign and the Clerk to attest.

Motion - Commissioner Latvala
 Second - Commissioner Brickfield
 Vote - 7 - 0

- #19 Amendment No. 3 to the Agreement with IBI Group, Inc. for Consultant Services for 46th Avenue North (80th Street North to 62nd Street North) (PID No. 922493) approved providing for additional design consultant services and contingency compensation in the amount of \$234,115.00 (revised agreement amount, \$689,770.13); Chairman authorized to sign and the Clerk to attest.

Motion - Commissioner Latvala
 Second - Commissioner Welch
 Vote - 7 - 0

- #20 Amendment to the Job Creation Incentive Grant Agreement with Nielsen Media Research, Inc. approved for execution terminating the agreement at the request of the company and eliminating expected future payments in the amount of \$2,276,786.00 from the Economic Development Department's incentive budget (Economic Development).

Motion - Commissioner Seel
Second - Commissioner Latvala

Chairman Harris reiterated that the company had requested the termination; whereupon, he expressed disappointment, noting that he felt Nielsen was fulfilling the terms of the agreement and expressing concern that the County not gain a reputation for being anti-economic development.

Vote - 6 - 1 (Chairman Harris dissenting)

- #21 Second resolution (No. 08-210) adopted determining the necessity to construct roadway and drainage improvements to Keystone Road from U.S. Highway 19 to East Lake Road (PID No. 920522) and directing the condemnation of the necessary properties and property rights required for construction (an additional eight parcels; total estimated property cost, \$250,000.00). Clerk authorized to record the resolution in the public records of Pinellas County (Real Estate Management/Public Works).

Motion - Commissioner Latvala
Second - Commissioner Welch

In response to query by Commissioner Latvala, Mr. LaSala related that there are still a substantial number of properties to be acquired for the project; whereupon, Director of Public Works Peter J. Yauch reported that 80 parcels are required for the project; that closing has occurred on 39, two are under contract, and negotiations are underway on 14; and that the remaining parcels are at various stages in the acquisition process.

Commissioner Latvala stated that there is a need to review the process used for acquisitions of this type; that the Keystone Road project is the most important road construction project in the County; and that it has been delayed for years, causing havoc in the community; whereupon, she outlined a condemnation procedure used successfully by the School Board to purchase 120 residences in a number of months. In response, Mr. LaSala suggested that the work session proposed under agenda Item No 17 have a broader scope, to include discussion of the County's approach to capital improvement projects; and that input be solicited from the professional community, as suggested by Commissioner Seel.

Vote - 7 - 0

- #22 Amendment No. 1 to the Design/Build Agreement with Hennessy Construction Services Corp. for the Public Works Emergency Responders Buildings – Phase 2 (PID No. 1477) discussed and temporarily deferred to the meeting of December 16, 2008 (Real Estate Management).

December 2, 2008

Responding to queries by Commissioner Seel, Building Design and Construction Division Manager Tom Borawski indicated that the project is still classified as a design/build project; that the entire project was budgeted at \$34,000,000.00; that Phase 1 has been completed at a cost of approximately \$1,700,000.00; that the design is complete; that construction documents are 50 percent complete; and that the bid for Phase 2 is \$30,346,462.00, which includes a \$2,000,000.00 owner-directed contingency and \$1,000,000.00 for construction material price escalation.

Referring to problems encountered with the Jail Expansion project, as discussed under Agenda Item No. 17, Commissioner Seel indicated that she would feel more comfortable holding off on Phase 2 until the construction documents are 100 percent complete. In response, Mr. Borawski stated that the Guaranteed Maximum Price for the Jail project was bid after the design development stage, before construction documents were prepared, and that many items had to be resolved in the construction phase; whereupon, he reiterated that the Public Works facility design and layout are 100 percent complete; that construction documents are 50 percent complete; and that the remaining items do not affect the project scope, which was affected in the Jail project.

Responding to further queries by Commissioner Seel, Mr. Borawski confirmed that the building size has been increased from 60,000 to 70,000 square feet to 82,000 square feet, and that an 11,000-square foot vehicle storage building has been added. He explained that an extensive programming session was conducted with the Public Works Highway Operations staff, who determined that additional space would be required for storage and various functions and recommended that a Category 5-resistant building be provided to protect critical vehicles. Director of Public Works Peter J. Yauch provided input regarding the existing buildings and operational needs of the proposed facility and indicated that storm water improvements have been made by the City and County, so flooding should not be an issue. He noted that the facility has been designed to provide a very functional, efficient use of space and accommodate current needs, with opportunities for redevelopment of the site to provide further services in the future.

Discussion continued wherein the members indicated their reluctance to proceed with a lump sum bid submitted prior to completion of the construction documents. Mr. Borawski indicated that the architect will complete the documents by January 30, 2009; that the subcontractors will need time to review the drawings and confirm their prices; that if approved today, completion would be expected in August 2010; and that prices have been dropping, so a three-month delay should not negatively affect the project cost; whereupon, Commissioner Bostock noted that adding three months to the August completion date would delay completion by an entire hurricane season.

Commissioner Latvala suggested that the Board approve only the site work at this time; whereupon, Mr. LaSala proposed that the matter be continued to the next meeting to allow staff to consider the reasons to delay or seek approval; and that it will be added to the agenda, with a detailed cover memo, only if the recommendation is to proceed.

Responding to queries by Commissioner Brickfield regarding the need for Category 5-resistant buildings, Mr. Borawski related that the project was rated as a top priority by the public during the Penny for Pinellas extension process; and that in the wake of a storm, critical Highway Department vehicles must be intact to open the roads for use by emergency responders; whereupon, Mr. Yauch indicated that many of the ideas implemented came from lessons learned on site visits to areas hit by Hurricane Charley; that Public Works employees must be housed and protected in a central location for dispatch following a storm; and that areas hardest hit by the hurricane have updated or replaced their buildings using the design approaches employed for this project.

Commissioner Morroni moved that the matter be continued to the next meeting, as suggested by the County Administrator.

Second	-	Commissioner Welch
Vote	-	7 - 0

#23 Other Administrative Matters:

Mr. LaSala related that he plans to provide periodic reports to the Board pertaining to implementation of audit findings, as requested by several of the members; and that he will work with his staff and the Clerk on a more structured approach to the internal audit process for both financial and other activities.

#24 County Attorney authorized to defend the County's interests:

- a. LaSalle Bank National Association versus Lisa Schultz - Circuit Civil Case No. 08-16161-CI-20 – Mortgage Foreclosure Involving an Ad Valorem Tax Lien.
- b. SouthTrust Mortgage Corp. versus Unknown Spouses, Heirs, Devisees, et al. – Circuit Civil Case No. 08-16221-CI-19 – Mortgage Foreclosure Involving a Subordinate Mortgage.
- c. J. Allen Miller versus Pinellas County Risk Management and City of Clearwater – Circuit Civil Case No. 07-012666-CI-21 – Assertion of Trip and Fall at Old Courthouse Site.

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

#25 County Attorney authorized to initiate litigation in the cases of:

- a. Pinellas County versus Sean J. Isaacs – Negligence in the Operation of a County-Owned Golf Cart.
- b. Pinellas County versus Melva Jane Metivier and Phillip A. Metivier – Negligence in the Operation of a Motor Vehicle

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

#26 County Attorney Miscellaneous – None.

#27 Change Order No. 2 increasing Contract Purchase Order No. 210839 (Contract No. 967-0007-N) approved providing for renewal of the software license maintenance agreement with Oracle USA, Inc. (Oracle Service Contract No. 3585525) through November 19, 2009. Revised total amount for the next 12-month period is \$754,768.16.

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

#28 Sitting as the Pinellas County Industrial Development Authority the Board adopted Resolution No. 08-206 approving issuance of not-to-exceed \$3,300,000.00 in Pinellas County Industrial Development Authority Revenue Bonds (R’Club Child Care, Inc. Project), Series 2008, setting forth the terms and conditions of the financing, and approving all documents (Companion Item No. 3).

Motion	-	Commissioner Brickfield
Second	-	Commissioner Welch

Responding to query by Commissioner Welch, Mr. LaSala confirmed that the amount is \$3,300,000.00 as noted under Item No. 3, not \$3,250,000.00 as shown on the agenda.

Vote	-	7 – 0
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#29 County Administrator Reports:

Referring to a PowerPoint presentation titled *Environmental Protection Agency Revised Ozone Standard*, a copy of which has been filed and made a part of the record, Department of Environmental Management Air Quality Division Director Peter A. Hessling reported that effective May 12, 2008, the Environmental Protection Agency (EPA) lowered its standard for the pollutant ozone from 85 to 75 parts per billion.

Mr. Hessling explained that compliance with the new standard (*attainment*) is determined by regions called *airsheds*; that Pinellas County is included in an airshed with Hernando, Hillsborough and Pasco Counties; that Pinellas County's ozone levels are below the new standard, but Pasco's and Hillsborough's are not; and that the entire airshed is likely to be classified as a *Nonattainment Area*; whereupon, he reviewed the implications of being nonattainment and requirements for conformity, listed various agencies responsible for ensuring conformity, and provided the timeline for achieving compliance with the new standard.

Responding to queries by the members, Mr. Hessling discussed the difference between ozone and greenhouse gases; and indicated that more information regarding the revised standard is available on the EPA website; that information will also be added to the County website; and that he plans to make a presentation to the Metropolitan Planning Organization, which has responsibility for the conformity process in Pinellas County.

During continued discussion, Mr. Hessling indicated that Congestion, Mitigation, and Air Quality (CMAQ) funding may be available from the federal government to implement certain ozone reduction strategies; and responded to queries by Commissioners Latvala and Seel regarding the use of hybrid vehicles and power plant modifications.

#30 Appointments to the Pinellas Planning Council approved for the term beginning January 1, 2009 and expiring December 31, 2010, as follows:

City of Treasure Island Vice-Mayor Bob Minning, representing Municipality Group A; and Town of North Redington Beach Vice Mayor Jerry Knight, representing Municipality Group B.

Motion	-	Commissioner Morrone
Second	-	Commissioner Brickfield
Vote	-	7 – 0

Upon nomination by Commissioner Seel, Town of Belleair Commissioner Stephanie Oddo, representing Municipality Group C.

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

#31 Chairman appointments to Committees/Boards for 2008/2009 approved.

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

Commissioner Morroni noted that he serves on the Pinellas Park Water Management District (PPWMD) Board and a Bridges Committee that meets in Tierra Verde on an ad-hoc basis; that he will be unable to attend the meetings for the next few months due to medical appointments; and that he feels it is important that a Commissioner be in attendance; whereupon, Commissioner Bostock volunteered for the Bridges Committee and Commissioner Brickfield agreed to attend the PPWMD meetings in Commissioner Morroni's absence.

#32 County Commission Miscellaneous:

- a. Commissioner Brickfield commented on a local fire district consolidation bill filed in Tallahassee and Assistant County Administrator James A. Dates and Mr. LaSala provided input.
- b. Commissioner Welch commented on a bill filed by Representative Long re Pinellas Park Water Management District and Assistant County Administrator Elithia V. Stanfield provided input.
- c. Commissioner Morroni thanked Commissioners Bostock and Brickfield for volunteering to attend meetings on his behalf in January/February 2009.
- d. Commissioner Seel clarified appointments to boards are effective immediately and suggested a workshop re the economic stimulus package.
- e. Chairman Harris requested the members provide names of individuals to serve on the Census True Count committee and offered a water conservation tip.

December 2, 2008

#33 Meeting adjourned at 1:22 P.M.

Chairman

ATTEST: KEN BURKE, CLERK

By _____
Deputy Clerk