

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119,**  
**Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**September 10, 2012, 1:30 p.m.**

**Call to Order**

**Chair Hess** called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

**Roll Call**

**PRESENT**

Paula Hess  
Michael Gravesen  
Brenda Bossman (late arriving)  
Steve Vieira  
John Mahshie

**ABSENT**

**ATTENDING**

Derek Rooney, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of July 9, 2012 were approved as circulated.

**ANNOUNCEMENTS**

**Chair Hess** introduced as a new item to the end of the agenda, the Board's discussion on an alternate November meeting date.

The oath was administered; **Chair Hess** then reviewed the quasi-judicial format required under Florida law for hearings on a rezoning.

**PETITIONS**

**Z-12-06-07**

**Quasi-Judicial**

**Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture (AG) to Planned Development (PD), for property located north of Bermont Road (C.R.74), south of the DeSoto County line, east of S.R. 31 and west of the Glades County line, in the East County area; containing 554± acres; Commission District I; Petition No. Z-12-06-07; Applicant: Calusa Green, LLC; providing an effective date.

**Staff Presentation**

**Inga Williams, Principal Planner**, presented the findings and analysis of the petition with a recommendation of *Denial*, based on the reasons stated in the staff report dated August 31, 2012. After first referring to the certification of the applicant's company, **Ms. Williams** then proceeded to describe the site that the application seeks to have rezoned, noting that a typographical error in the staff report, since corrected, misstated the Township-Section-Range coordinates.

She next outlined the requirements for siting of solid waste management facilities as set forth in the Smart Charlotte 2050 Comprehensive Plan. She noted the various matters on which the application meets the County's requirements, and then referred to those matters which did not meet those requirements. **Ms. Williams** also discussed the needs analysis from both applicant and from the County's consultant, noting that the County's consultant did not identify adequate need within the County to support construction of such a facility.

The next subject discussed by **Ms. Williams** concerned the aquifer which supplies potable water to the citizens of the County, and the probable impacts thereon arising from the proposed project.

**Questions for Staff**

*None.*

**Applicant's Presentation:**

**Geri L. Waksler, Esq.,** agent for the applicants, spoke in support of the request with the assistance of visual aids. She began her presentation by describing the elements of the proposed facility, which she noted would be developed in five phases over 30 years. She noted the distance from the project site to any point of the Babcock Ranch property, along with distances from the county line and residences; she compared this proposed siting with the siting of the County's Zemel Road landfill, noting that the drainage patterns in the Zemel Road area ensure drainage into Charlotte Harbor. **Ms. Waksler** also made a similar comparison with the waste management facility located in DeSoto County, adjacent to the Peace River and about eight miles from the regional water treatment facility; the proposed Calusa Green facility would be located about 22 miles from Charlotte County's primary water source on Shell Creek.

**Ms. Waksler** noted that the principals in the project include former principals of the Construction and Demolition Debris landfill next to the Zemel Road facility. She also focused on the extensive review and study that went into locating such a facility in the East County area, taking issues such as natural drainage patterns into account, particularly in view of the failed bid by Omni Waste in the same area in 2007. She noted that the people developing the site live in the area and would continue to live there, based on their confidence in the project.

She also discussed the lack of any protected species in this area which has served as groves over the recent past, but which is now fallow.

Traffic was discussed next; **Ms. Waksler** stated that the facility would have approximately 200 vehicles a day entering the site, of which about 150 will be hauling trash and the remainder would be employee vehicles and vendors. Counting trips in and out, the site is expected to generate approximately 427 trips a day, as noted in the traffic impact study for this project. She compared this estimated traffic to the traffic from groves and excavation that would no longer continue and suggested the net traffic would be lower than stated in the application. She compared the number of trips to a large hardware store, residential area or a Circle K, noting that each of those uses generated more traffic.

Site selection was said to have been made primarily because it would have no impact on the ground water; she introduced David Brown, professional geologist, licensed in the state of Florida. **Mr. Brown** first gave his credentials and his work background and then commented on the subsurface characteristics of the site, which was the focus of his investigation. He noted that the location between Prairie and Shell creeks had been extensively tested and other agencies' testing was also reviewed. He addressed the basic hydrogeology of the site, with the

layers of aquifers (surficial, intermediate and the upper Floridian aquifer) with reference to graphic materials. (The technical information presented is also in his report within the petition materials.)

Ms. Bossman arrived at 1:56 p.m..

Speaking of the borings taken, **Mr. Brown** made several observations about the material retrieved, e.g., that there was no vegetative matter nor any evidence of sinkholes which would signal vertical recharge. He challenged the idea of resisting the project based on that part of the Comprehensive Plan which cites the presence of recharge areas as a reason for not locating such facilities there. Further technical information was offered, basically establishing a 'thick confining layer' of materials over the aquifer here, which would keep out contaminants.

**Ms. Waksler** returned to the podium and addressed the technical issues Mr. Brown had covered, acknowledging that most resistance to the project will revolve around concerns over threats to the water supply; **Ms. Waksler** emphasized the unlikelihood of penetration. She noted that this same information was presented to the City of Punta Gorda, which issued a letter of No Objection in response.

**Ms. Waksler** next addressed storm water run-off and the 100 acre pond that would be created for the project; she stated that this pond would have the capacity to handle a 500-year water event (more water than the recent H. Isaac produced); she stated that the site would retain ALL water and none will be discharged to neighboring properties. **Ms. Waksler** also noted that Calusa Growers will be planting on the unused phases until they come online.

She next called upon Mr. Jim Thompson, former Director of Charlotte County's Environmental and Extension Services which operated the County's landfill. **Mr. Thompson** described the anticipated process of removing toxic materials from the waste stream entering the landfill, which would result from the sorting of all materials entering the site. In addition, DEP mandates three documented load inspections each week. **Ms. Waksler** returned to the podium, discussing the difficulties attending the creation of a landfill, noting that after the County had given a decision (if positive) they would still need to go through a state process.

The next topic addressed was whether the siting of the proposed facility meets the requirements of the Comprehensive plan. **Ms. Waksler** next introduced Mr. Dan DiLisi to speak to the issues associated with siting such a facility in the County; **Mr. DiLisi** noted they had submitted a detailed analysis of the project in relation to the Comp Plan, rejecting some of staff's conclusions in the process. He disagreed with staff's conclusion on a number of issues, including the project's need to meet FLU Policy 2.3.6 regarding ground water protection issues or that this is an industrial use. He noted that landfills are not allowed in the industrial land use districts, and he said are far more compatible for rural settings than for urban areas (and that the outrage if the siting was proposed within the urban setting would be much greater).

**Mr. DiLisi** next mentioned the fallow nature of the site at present, noting that there would be no premature conversion of agricultural uses as a result of the project. With regard to hazardous materials in proximity to potable water supplies, he reiterated the previous speaker's note that there would be no penetration. As for the Prime aquifer recharge protection policy from the Plan, he stated that the map notes the project site is in an area noting very low to no recharge and that the map fails to indicate which of the delineated areas is the 'prime recharge' area. Due to this lack of any definition within the Plan, he stated that this can't be considered prime recharge area; instead, he referred to a definition from Florida DEP and the water

management districts, which is given in the Florida Administrative Code, which he feels excludes the project site.

**Chair Hess** observed the large number of members of the public awaiting the opportunity to speak; **Ms. Waksler** requested time to address one more item: the needs analysis. She questioned whether there is sufficient capacity at the existing Zemel Rd. to meet needs through to 2050, and quoted from a consultant pointing out that the County indicates it would expand to the adjacent properties; she stated that this overlooks impacts to neighboring wetlands, the expiration of the County's Army Corps permit, and other points. **Ms. Waksler** indicated that the applicant's group objects to what they see as the County holding itself to a different standard than it requires from developers.

Her final argument concerned the emotional nature of the resistance to becoming "the dumping ground for other people's trash" which she countered with an economic argument: Jobs and tipping fees, and the conversion of low-rate AG property tax land to higher-taxed land. Her question was: Why wouldn't people want to take advantage of resource?

**Chair Hess** asked if any Board members had questions for the applicant's agent or the experts.

Next, member of the public claiming 'objector' status were identified, and the time limits for their comments were set, by Derek Rooney, Assistant County Attorney, as five minutes for general comment from the public and objector status (one who is represented by an attorney and prepared to present evidence in opposition or support of the application, or who wishes to cross-examine any members of the applicant' group) 37 minutes per person.

### **Public Input**

**David Levin, Esq.**, Environmental Attorney, former City of Punta Gorda Attorney but who does not appear in that capacity, spoke in opposition, representing Packer's Gulf Citrus, a neighboring grove owner opposing the project. **Mr. Levin** noted there were a number of deficiencies in the application which he said should cause the application to be turned back until they were cured. Among the lacking items, he noted first, referring to the requirements of the siting ordinance, that certain showings were lacking in the application. The application does not address in any way the impacts on neighboring groves; because this isn't even mentioned, there's no way to discuss or rebut them.

Also, there is a requirement in the code for the applicant to demonstrate safe access to the facility and to address the ingress/egress and impacts on the traffic system. **Mr. Levin** said that his client owns Chiquita Dr. which would be the primary access to the project, and Calusa Groves has permission to use it for the transport of fruit; applicants have not actually sought permission to use Chiquita Dr. for access to their dump. Four hundred trips are estimated to be needed over that roadway each day; what about the impacts on this private road? During the April traffic counts, there were 3 trips using that drive; compare this number to the 400 trips anticipated by the proposed project. No discussion was had on this subject.

**Mr. Levin** next referred to a cross-section drawing included in materials he provided to the Board; he noted the suggestion is being made to pave Chiquita with 'pervious material' and later stated that the intention was to pave the drive, asking: Without the drainage structures in place, what would the impacts be to the neighboring properties. **Mr. Levin** concluded by stating it should be denied but that it's not yet ready to be denied, because it's incomplete.

**Stumpy Harris, Esq.**, of Winter Park, FL, representing Mr. Fred Hill and several other people in the neighborhood, spoke in opposition to the project; he noted that the staff report makes it clear that this project is not yet ripe. He made it clear that people in the neighborhood did not know until very recently that the proposed "Planned Development" was going to be for such a facility; unlike the applicant who has had forever to prepare, those in opposition have not had a similar opportunity. **Mr. Harris** also said, in response to the applicant's comments on comparison of trips generated, what kind of vehicles are being compared? Are huge garbage trucks pulling in and out of the Seven 11 parking lot? **Mr. Harris** said that he thought there were not. He requests that ample time be made available to opposition to make their case and more time to state their case in public hearing. In response to the point that landfill is an AG use, **Mr. Harris** expressed disbelief.

He stated that he is prepared to give his time to the many other people present who want to speak, unless the Board were to send the applicant back. **Chair Hess** asked Ms. Williams, who said that the completeness review was among the first things that staff reviewed, and considered it complete though the sufficiency with regard to coverage of the water quality issue seemed lacking. **Chair Hess** asked if the presentation today had improved the analysis; **Ms. Williams** responded that the presentation material was the same material that the County's consultant CardnoEntrix had reviewed, and they also had questions about it which the applicants said would be addressed during the DEP permitting process.

**Chair Hess** next asked Mr. Rooney whether there is time in between this meeting and the BCC to ask for completion of the application; **Mr. Rooney** said he felt it would be appropriate to go through the information offered by all the objectors and other members of the public, so that the applicant, at the least, can find out what others think about the issue of insufficiency.

**Mr. Jason Green** of Weiler Engineering, upon being sworn, spoke as an objector on behalf of DeSoto County, referencing the needs analysis aspect and the possible impact on DeSoto County landfill currently, though perhaps a new regional landfill would be appropriate at some time in the future. **Mr. Green** also indicated that another issue is the traffic, not just the numbers but the type of heavy trucks that will be used and the garbage that will be flying off the moving trucks.

**Russell Shropp, Esq.**, of the Henderson Franklin law firm, accompanied by Dr. David DePew (expert) representing Northern Trust Company as trustee for owners of adjacent properties, and OrangeMark LLC. **Mr. Shropp** offered a map showing the relative locations of his clients' properties to the project site. He noted that his clients became aware of the project earlier than others in the neighborhood; he stated that he is speaking on their behalf in objection to the project, and his expert will give details. Objections will be to non-compliance based on need showing, project at odds with the Comp Plan, a failure to provide adequate data and analysis, and more. **Mr. Shropp** then introduced his expert, Dr. DePew.

**Dr. David DePew** indicated that he found the application insufficient to recommend approval; he stated that it fails to demonstrate a compliance with the intent or provisions of the Comp Plan, and failed to demonstrate an entitlement to the rezoning. Not only would the project involve an outsized Class I Municipal Solid Waste site, but also a construction and demolition debris (C&D) facility about which there has been relatively no information provided; likewise Dr. DePew noted, the energy recovery plant has been included without adequate details, and the composting and bio solids operation, which leaves unanswered questions about the types of bio solids that will be brought to this facility, and what sorts of composting activities are planned. At the request of the Chair, he defined the term C&D operation with a brief discussion.

**Dr. DePew** next gave his opinion that the requested project is not compatible with existing or planned uses in the area; it would pose risks to ag activities and future rural development in the area. He cited at some length the various Comp Plan goals, objectives and policies that are not met by the project, stating that significant negative environmental impacts are likely. (**Dr. DePew** stated he would be providing a written copy of his remarks to the Board and the recording secretary; they are attached hereto and made a part of these minutes.) In conclusion, **Dr. DePew** stated that the applicant's proposed uses are not appropriate at the subject location, the applicant has failed to demonstrate that the proposed land use is in any way compatible with the on-going AG and residential uses as well as the resource protection uses in the area. After further discussion regarding applicant's failure to demonstrate need, insufficiency of the revised traffic impact statement, and other aspects of the project, he strongly recommended denial, noting his opinions that the County's prohibition against locating such a facility in the watershed overlay is absolute, and that the needs analysis does not meet the requirements of the Code of Ordinances.

**Mr. Shropp** returned to the podium, commenting that while he supports staff's conclusions, there was a point of divergence from their analysis that he wanted to discuss, namely applicant's assertion that the current Watershed Overlay District should not be used but rather the one in the 1997-2010 Comp Plan. **Mr. Shropp** spoke against that assumption, citing the Florida Statutes that specify that only the County's *adopted* comprehensive plan may be used.

**Neal Montgomery, Esq.** representing the Hall Family members, supported staff's recommendation of denial; she also accepted and incorporated the comments of the preceding speakers. She stated she had not had a great deal of time to review the matter, but noted the presence of a water resource protection area and a critical wildlife corridor in the project area. She stated that she appreciated Mr. DiLisi's distinction between industrial and agricultural uses but said it would be hard to say that a bio-solids compacting facility, a recycling center and an energy recovery plant are anything but industrial-type uses, inappropriate for a wildlife corridor. **Ms. Montgomery** also pointed out that the 25 potential jobs here would be hardly 'a drop in the bucket' and should not sway the decision. She also noted that landfills attract rodents and coyotes, that will impact neighboring cattle; vegetation brought in could harbor citrus canker and destroy the crops of surrounding growers. She questioned what the energy recovery utility would comprise, stating that not enough information had been provided.

**Chair Hess** notes objectors are done; other people may speak, but please try to say something new.

**Mr. Dominic Barbera**, retired firefighter, newly out of the hospital, but felt this was important enough to come. He is here to speak against the project, noting that he has put out many a dump fire and it's not easy; in addition, after you fight the fire, you fight the rodents. He also asked, what about methane gas, which is combustible. He also felt that despite other testimony, the water will leach into the ground when it rains.

**Mr. David Bogel**, spoke in opposition to the project. Addressing the statement by applicant that this project will equal new revenues, Mr. Bogel stated that property values will decrease, taking tax revenues down with them. He also commented on the dangerous nature of Bermont Rd., which he said will only get worse if this facility is permitted.

**Mr. Clark Keller**, Washington Loop resident and local business man; he spoke in response to the applicant's suggestion that the County always 'gets a pass' – e.g., with respect to expansion of the Zemel Road facility. He pointed out that the County does things that benefit

the public, not something the proposed project can claim. He also questioned the number of trucks that will be in service, stating that the documentation was not complete. He also disputed the comparison with average Circle K traffic counts; he also said that he is a former trash truck driver and reported that these types of trucks often sit for as much as a week waiting to haul a full load. The contents of the trucks ferments and stinks while the truck is waiting for a full load. Next, he observed that the roads serving the facility are also 'haul routes' for the kids; he said that Mr. Laishley had said the trucks will be on the roads in the peak activity hours 7-9, the very time when kids with stand on the roadside, waiting for the bus in the dark months. He gave his opinion that the money coming into the County for tipping fees would not be adequate to repair the roads that will be impacted.

**Mr. Patrick Hill** upon being sworn, addressed Ms. Waksler's statement about the location of existing dumps near water facilities; he asked whether applicant plans to bring in a water treatment facility to address the wastewater of Calusa Green. **Ms. Waksler** responded directly to this question at the direction of the Chair, noting that these facilities are not for potable water treatment, but for treating storm water. **Mr. Hill** posed another issue, regarding the type of water provided to the nearby communities, e.g., well water is more usual for homes in the East County area, whereas the homes in the Zemel Road area are generally on city water. **Mr. Hill** also questioned the apparent fact that watershed flow is to the NW of the proposed site, but test wells were all to the east and southeast of the proposed site; further points regarding the watershed and the flow. As for traffic, 90% of 427 trips per day are anticipated to come from the 31/74 intersection, adding huge trucks to an already overburdened, dangerous intersection. He added to the list of wildlife mentioned (panthers and black bear), mentioning the Florida Sandhill Crane among others.

**Mr. Fred Hill**, a resident of the area, stated that he was not opposed to anyone making money, but that he was speaking on behalf of a number of small ranch owners, all of whom are very close to the proposed landfill. He felt that the project was kept very quiet; he mentioned that the applicant's agent, Ms. Waksler, has financial interest in the project, which he felt she should disclose at this hearing. **Mr. Hill** maintained that the project is inappropriate for the area and will adversely affect the land values in the area.

**Mr. Steve Blowt**, attorney, said that he was contacted early this morning about the project, and this call brought him here to speak against this. He stated that his day started at 9 a.m. at the Wyvern with 30-40 concerned people speaking about their fears for their land out there. He disparaged the applicant's assertions that nothing they do will have any impact on water or people or the rural character of the community, because it is *needed*; but then he heard that virtually all the trash and traffic is coming from elsewhere.

**Chair Hess** asked why so many people are mentioning a lack of notice or that the notice did not mention that the project was for a land fill, but only "Planned Development". Assistant County Attorney Derek Rooney responded that the noticing was done in accordance with State and County regulations.

**Mr. Joel Beverly**, State Director for the Charlotte County Cattlemen's Assoc., speaking against the project. He noted that this is major beef-producing land, and based is opposition on the potential hazard of air-borne diseases and contaminated water which could impact 10,000 head of beef cattle. **Ms. Waksler** challenged Mr. Beverly to identify the location of the cattle ranches, since she believes the immediately neighboring land is all in citrus; **Mr. Beverly** responded, referencing the Babcock Ranch and his own property at the intersection of Bermont Rd. and SR 31.

**Mr. Randy Stevenson** a resident of the area, stated his disagreement that the project will not impact the homeowners. He questioned whether he would be able to breathe fresh air once he retires, and states that he doesn't want to see a dump in this area, which is two miles away from his home.

**Ms. Ruth Bromberg**, representing local Sierra Club, stated that she was at the morning meeting in Punta Gorda. She reviewed the FLUM map and referenced the work of Sierra Club in establishing the wildlife corridors.

**Ms. Linda McHugh** resident of the area who describes herself as an avid hiker, thinks there is a need to update the wildlife counts, as in her experience there is a lot more than presently referenced. Referring to the oranges applicant intends to grow there, she asks if they would be selling this juice to the public. Applicant's engineer, Gary Bayne started to reply off mike; **Mr. Rooney** interrupted and referenced the proper way to handle such an exchange.

**Mr. Jack Porter**, resident and rancher in the area, stated that his main concern is the traffic. He described SR 31 as a death trap, noting that it has been resurfaced and needs to be resurfaced again. Mr. Porter also pointed out, with regard to the equivalency asserted by Ms. Waksler between truck traffic for trash vs. that for citrus, at oranges are a seasonal event, whereas trash hauling would be done every single day. He also spoke about his concerns for the safety of his children.

**Mr. Jim Williams**, Williams Farms, spoke about his farming operations, and the things they raise. He stated that his operation is responsible for major chain store buyers coming to the area. His concern is that they will come here and see a dump nearby and that will change their feelings about buying here. He asked that the Board recommend denial.

**Mr. Mike Almoskey**, owner of Almoskey's Grape Farm who also has a hunting preserve. He said that he worries people won't want to eat 'dump hog'. He stated that Zemel Rd. is enough in terms of capacity. He also said he hunts in Yucca Pen, near Zemel Road, and they don't eat any of the hogs from that area either.

**Mr. Tom Columbano** said that his property is contiguous to this site on SW corner; addressing the applicant's agent, he noted that they have cattle, not citrus, on the property. They also have a pond to serve their cattle, and rains sometimes flood the entire area, so dump runoff would eventually affect his pond. He wondered how high the berm would have to be for a towering structure like that dump. He also said he doesn't want to see his property values go down. **Mr. Columbano** said he is a retired fire fighter and has experience with difficult-to-fight dump fires. He asked what kind of penalties would there be if things didn't go as planned, if the berm is breached, or there is toxic run-off.

**Ms. Joan Fischer**, said that she doesn't live in the East County, but is a resident of Port Charlotte. She commented on the use of "Calusa Green" as the name for this project, noting the marketing aspect of choosing this project name. She stated that garbage from surrounding counties will be brought to this dump; could come from anywhere, but not from Charlotte, and she reminded people of the Islip NY garbage barge that could not receive permission to offload anywhere in the world, identifying this as the beginning of the recycle movement.

**Mr. Ralph Chamblin**, land manager of Edentown Company. He spoke regarding the differences in landowners whether they invite the landfill or choose to replant the land. He is

concerned about what buyers of his produce will say about things grown next to the landfill, given today's food safety protocols; he feels he will lose his market.

**Ms. Lisa Monsano**, who works nearby at Lady Moon Farms, stated that she opposed the project. Lady Moon is the biggest organic farm on the east coast, and they are food safety certified, and such a project near them would raise risk from diseases.

**Mr. John Paul** stated that he agrees with opposition to the project; another aspect he noted is the medicinal and food plants that are being discovered out in these very delicate habitats. It's a great resource that should be protected. He cited migratory birds (such as frequent landfills) as disease carriers which are as efficient as the trucks!

**Ms. Patricia Roebuck Swindle**, trustee for the Roebuck Ranch, stated that she opposes the project.

**Mr. Lindsey Harrington**, owns property within 4 miles of the site, and represents Lewshane Hall and others; he stated that he is usually here speaking in support of a Bruce Laishley project, but not this time. When he sells property, he is selling the idea that "It's a great place to live." This would be a heavy industrial use in a "one home per 10 acre" setting, and there is only about 216 square miles of such rural living setting left. **Mr. Harrington** noted that the county has only one east/west and one north/south highway in this area, and all this traffic will be on those roads, and will have a great impact on the residents. He said that the City may not fully appreciate the issues. He commented further on the issue of how the water that can't penetrate the clay will move laterally; on the impact of buzzards (landfills attract such vermin) noting that buzzards can kill birthing calves. **Mr. Harrington** urges the Board to continue this or to deny it. To the earlier comment that a landfill "doesn't produce anything" **Mr. Harrington** responded that it produces a nuisance.

**Mr. Bob House** owns a parcel near the project. **Mr. House** asked if this about a landfill or money for the already rich, and wondered how any Board member could vote for this if they are a resident of the County.

**Ms. Cheryl Seymour**, resident of MHP Paradise Park. The owners' concerns are, first, the water; they are regulated by DEP and have regular testing they have to pass to even have a well. They are also concerned about the traffic; residents have already been killed at 31/74.

**Mr. Chris MacArthur**, invited the Board to go to Lake Okeechobee where a similar project went through; he noted that the water doesn't get through the berm around the lake but the birds fly over it and they take the trash with them. He also questioned the applicant's math, wondering if the development costs could be made back on 427 trucks a day?

**Ms. Melanie Daughtrey**, resident and wife of Rusty, a firefighter and rancher, living three miles from the landfill site, spoke about the anticipated impacts on her life and land.

- **Mr. Vieira** moved to close the public hearing, second by **Mr. Mahshie** with a unanimous vote.

A recess was called at 4:09 which ended at 4:15 p.m.

### **Applicant's Rebuttal**

**Ms. Waksler** requested to answer the questions first, and then the five minutes rebuttal period.

1. Regarding Chiquita Rd., **Ms. Waksler** stated that there's an easement and that it's not limited in any way.
2. On the question of how to fit 70 feet of road and drainage structures on an existing 60 ft road, she stated that there's no problem according to their engineers.
3. She took issue with the 248 ft height of the landfill mentioned by a number of speakers; she stated that it's substantially less (190 feet, which is lower than the Zemel Rd. facility) and wouldn't be seen from the road.
4. As for the question of the application completeness; she reminded the Board that Ms. Williams says it was complete, so she is uncertain exactly what they are looking for; it's all in there as separate documents.
5. She next addressed questions about ownership, stating that Calusa Green is a group composed of citrus growers, SW Green Developers LLC, composed of various partners including SW Engineering Design, Banks Engineering and Ms. Waksler.
6. As to the question of how all the water will be kept on the site, there will be a liner; it will go into a separate tank and will then be trucked off the site. A 100-acre stormwater facility will contain other rainfall that doesn't touch garbage.

**Ms. Waksler** next called on **Mr. Andy Richardson**, appraiser, to address the aspect of negative impact on property values. Mr. Richardson described a combination of several sources: general studies, in which the results are mixed, based on design, location, and other similar elements. He then analyzed local sales (comparables) and found in these comparisons that sales within a three-mile radius were very much same as outside the radius. Finally, he studied impacts on future development, be assessing some closed landfills in the area. In one example, he mentioned that the North Port landfill is now Heron Creek development.

**Ms. Waksler** again addressed the Board, focusing on page 7 of the staff report and quoted the staff's conclusion that the facility is in accordance with standards. She revisited the fact that people speaking against the project live further than others live from Zemel Rd. with no impact. In closing, she stated that if the project is denied for Charlotte County, it will be taken to DeSoto County, and Charlotte residents will have no control over that traffic either.

After clearing a point of order with **Mr Rooney, Chair Hess** said that before she called the motion, she would ask each Board member to state their findings and directed the Board that the foremost consideration is whether this zoning change is or is not consistent with the Comprehensive Plan. She stated she finds this change is contrary to the comp plan, principally to the following policies:

MSW 2.3.1. The requirement to establish need for added disposal capacity in Charlotte County; added capacity is not needed to serve County residents. The Zemel Road Landfill is sufficient to 2030.

FLU 2.3.6, WSW 4.1.2 & 4.1.3 Protection for groundwater, recharge areas and potable water, and protection from sludge disposal on the same.

FLU 3.2.1 & 3.2.5 Preservation of the rural character and economic viability of agricultural lands.

**Chair Hess** said she is therefore in agreement with the staff recommendation of denial in that this zoning is contrary to and inconsistent with Smart Charlotte 2050.

**Mr. Vieira** said that he also finds it contrary to Smart Charlotte 2050; he's concerned about the abutting property owners receiving adequate notice and about the watershed implications and the wildlife corridor being affected. He agrees with staff's recommendation of denial.

**Mr. Gravesen** indicated that he supports the staff finding that it is contrary to the Comp Plan; additionally, the location might be more appropriate than Zemel Rd., because farther out, but only if you were starting from scratch; but Zemel Rd. has capacity for 15-20 years more. However, the amount of time required to have a new facility is such that it might take five years, so planning needs to take that into account.

**Mr. Mahshie** also finds the project to be inconsistent with Smart Charlotte, and especially bad for those residents living nearby. He said that he believed there will be an impact on roads and environment, and that there are more answers needed to the many questions that have been raised. The opposition should have more time to bring in their own experts; he would suggest continuing the matter for as much as 90-120 days.

**Ms. Bossman** also agrees with staff, and isn't sure a continuance is needed if the Board agrees with staff's reasoning on the matter, particularly with respect to the Comprehensive Plan.

#### **Recommendation**

**Mr. Vieira** moved that application **Z-12-06-07** be *Denied*, based on the findings and analysis of the petition, along with the evidence presented at today's meeting, second by **Mr. Gravesen** and carried by a unanimous vote.

A brief recess was called so that the meeting room could be cleared. The meeting restarted at 4:42 p.m.

#### **Z-12-06-04                      Quasi-Judicial                      Commission District III**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Planned Development (PD) to Environmentally Sensitive (ES), for property located north of Buck Creek, southwest of Placida Road and east of Lemon Bay, in the Grove City area; containing 69.9± acres; Commission District III; Petition No. Z-12-06-04; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

#### **Staff Presentation**

**Jie Shao, Planner III**, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated August 20, 2012. Because the property was purchased with Conservation Charlotte funds, and is currently designated as Preservation land use, the zoning must be changed to achieve consistency between the Future Land Use map and the Zoning Atlas.

#### **Questions for Staff**

*None.*

#### **Public Input**

*None.*

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

**Discussion**

Observations about the need for consistency for lands purchased with Conservation Charlotte funds.

**Recommendation**

**Ms. Bossman** moved that application **Z-12-06-04** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated August 20, 2012, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote:

**Z-12-06-05                      Quasi-Judicial                      Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Environmentally Sensitive (ES), for property located north of Washington Loop Road, south of the DeSoto County line, east of Duncan Road (U.S.17) and west of S.R 31, in the East County area; containing 1,638.44± acres; Commission District I; Petition No. Z-12-06-05; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

**Staff Presentation**

**Jie Shao, Planner III**, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated August 20, 2012. Because the property was purchased with Conservation Charlotte funds, and is currently designated as Preservation land use, the zoning must be changed to achieve consistency between the Future Land Use map and the Zoning Atlas.

**Questions for Staff**

*None.*

**Public Input**

*None.*

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Mahshie** with a unanimous vote.

**Discussion**

*None.*

**Recommendation**

**Mr. Vieira** moved that application **Z-12-06-05** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated August 20, 2012, along with the evidence presented at today's meeting second by **Mr. Gravesen** and carried by a unanimous vote.

**Z-12-06-06                      Quasi-Judicial                      Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Environmentally Sensitive (ES), for property located north of Bermont Road (C.R. 74), southeast of Washington Loop Road, east of Duncan Road (U.S.17) and west of S.R 31, in the East County area; containing 366.57 ± acres;

Commission District I; Petition No. Z-12-06-05; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

**Staff Presentation**

**Jie Shao, Planner III**, presented the findings and analysis of the petition with a recommendation of *Approval of the modified request*, based on the reasons stated in the staff report dated August 20, 2012. Because the property was purchased with Conservation Charlotte funds, and is currently designated as Preservation land use, the zoning must be changed to achieve consistency between the Future Land Use map and the Zoning Atlas.

**Questions for Staff**

None.

**Public Input**

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Mahshie** with a unanimous vote.

**Discussion**

None.

**Recommendation**

**Mr. Vieira** moved that application **Z-12-06-06** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated August 20, 2012, along with the evidence presented at today's meeting and second by **Mr. Mahshie** and carried by a unanimous vote.

**Z-12-08-08**

**Quasi-Judicial**

**Commission District I**

An Ordinance pursuant to Section 125.66, Florida Statutes, amending the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Environmentally Sensitive (ES), for property located northeast of Harbour Point Drive, south of Sandhill Boulevard, east of Sulstone Drive and west of the Peace River, in the Deep Creek area; containing 101.83± acres; Commission District I; Petition No. Z-12-08-08; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

**Staff Presentation**

**Jie Shao, Planner III**, presented the findings and analysis of the petition with a recommendation of *Approval of the modified request*, based on the reasons stated in the staff report dated August 20, 2012. Because the property was purchased with Conservation Charlotte funds, and is currently designated as Preservation land use, the zoning must be changed to achieve consistency between the Future Land Use map and the Zoning Atlas.

**Questions for Staff**

None.

**Public Input**

None.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Mahshie** with a unanimous vote.

**Discussion**

None.

**Recommendation**

**Mr. Vieira** moved that application **Z-12-08-08** be forwarded to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated August 20, 2012, along with the evidence presented at today's meeting second by **Mr. Mahshie** and carried by a unanimous vote.

**Chair Hess** noted to the group that the November meeting would fall on Veterans Day; there followed a brief discussion of alternate days on which the meeting could be held. The group agreed to hold the on Nov. 5<sup>th</sup> **Mr. Rooney** suggested changing the date via motion, and **Ms. Bossman** moved that the Board meet in November on the 5<sup>th</sup>, second by **Mr. Gravesen** and carried by unanimous vote.

There being no further business to come before the Board, meeting was adjourned at 4:52 p.m.