

**MINUTES REPORT  
LOCAL PLANNING AGENCY  
June 22, 2009**

**MEMBERS PRESENT:**

Noel Andress (Chair)  
Cindy Butler  
Carie Call  
Jim Green

Mitch Hutchcraft (left meeting at 9:30 a.m.)  
Ron Inge (Vice Chair)  
Carla Johnston

**STAFF PRESENT:**

Chahram Badamtchian, Zoning  
Donna Marie Collins, Asst. Cty. Atty.  
Lisa Hines, Zoning  
Dave Loveland, DOT

Janet Miller, Recording Secretary  
Matt Noble, Planning  
Paul O'Connor, Planning Director  
Dawn Perry-Lehnert, Asst. Cty. Atty.

**Agenda Item 1 – Call to Order, Certificate of Affidavit of Publication**

Mr. Andress called the meeting to order at 8:30 a.m. in the Board Chambers of the Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL. Ms. Collins, Assistant County Attorney, certified that the affidavit of publication was legally sufficient as to form and content and entered it into the record.

**Agenda Item 2 – Pledge of Allegiance**

**Agenda Item 3 – Public Forum** - None

**Agenda Item 4 – Approval of Minutes – June 3, 2009**

Mr. Inge made a motion to approve the June 3, 2009 meeting minutes, seconded by Ms. Johnston. There being no further discussion, the motion passed 7-0.

**Agenda Item 5 – 2008/2009 Regular Lee Plan Amendment Cycle**

**A. CPA2008-01 – Lee County Bikeways/Walkways Facilities Plan Map 3D**

Mr. Loveland reviewed the staff report for this amendment request, which updates Map 3D.

General questions and answers ensued between the LPA and staff.

Mr. Andress referred to Attachment B and noted that the sidewalk and bike path were on the wrong side of the road. It should be on the west side of Stringfellow Road as opposed to the east side as shown on the map. He further clarified that on the north end of Stringfellow Road the sidewalk and bike path are on the west side of the road.

Mr. Hutchcraft referred to Metro Parkway on Attachment A and noted the sidewalks along that road were reflected; however those facilities were not depicted on the two new proposed maps.

Mr. Andress asked if anyone from the public wished to comment.

Mr. Dan Moser, BPAC, stated that although he did not wish to sidetrack this document and all the work that went into it, he felt there were a lot of problems with the map in general. For instance, many changes have taken place in the overall thinking of transportation as people are looking for a more complete street process. He noted there were places on the map where there are no accommodations for bicycles unless you use a sidewalk, which is not generally recommended or a legitimate use. He also felt there were many missing links in the County's network of on-road facilities as well as off road facilities that are adequate for bicycles to use with pedestrians. Even though the LPA may adopt this map, he believed it should go back to the drawing board immediately because there are three or four major roadways that are primary facilities yet they have no accommodations for bicycles such as College Parkway and Cypress Lake Drive. Mr. Moser stated the County should decide how they will reallocate space in these areas. He felt the County reallocates space when working on road widening projects, yet they do not seem to make it a priority when dealing with bike and pedestrian matters.

Mr. Inge referred to comments by Mr. Moser about reallocating space on these two major roadways, which would mean condensing the lanes. He expressed concern with the safety aspect of condensing lanes for one type of user when it could create an unsafe condition for everyone.

Mr. Moser stated studies have shown that narrowing lanes down to 10 feet have not caused any significant capacity issues or safety issues.

**Ms. Call made a motion to transmit Lee Plan Map 3D for the unincorporated Bikeways/Walkways Facilities, seconded by Mr. Green. There being no further discussion, the motion passed 7-0.**

**B. CPA2008-17 – Incorporate Commercial Uses in the Coastal Rural Future Land Use Category**

Ms. Lisa Hines gave an overview of this amendment. She noted that staff received a request this morning by the public to table this action for further review and possibly some additional amendments to Goal 14 of the Lee Plan. She asked for a motion from the LPA to table this item for further work.

Mr. Andress noted there were a number of parcels on Pine Island that are zoned "Commercial" yet the FLUM does not match the zoning. He asked if it was staff's intent to match these.

Ms. Hines stated they would be matching the two. She noted staff was proposing some very limited commercial uses in these areas as well as a parcel size of two acres, which further limits the design and the type of uses that can go in these areas.

Mr. Andress asked if anyone from the public wished to comment on this item.

Mr. Phil Buchanan, representing the Greater Pine Island Civic Association, stated he was in agreement that further work was needed on this amendment and should be brought back next month. However, he felt more was needed than just clarifying what goes into Coastal Rural. He stated staff should also clarify what would be going into the Villages. He stated the Pine Island area could use some commercial such as gas stations and barber shops in the Villages, which would serve the people living in that area. On the country side of this area, they could have some uses such as feed stores, nursery retail, and produce stands.

Ms. Johnston noted that although the language in the staff report seems to be intended to only focus on Pine Island, there are other sections that seem more generic. She suggested that when staff amends their staff report for next month, they might want to tighten up some of the language to make it clear they are focusing on Pine Island.

**Ms. Call made a motion to continue CPA2008-17 Coastal Rural Future Land Use to the July 27, 2009 Local Planning Agency meeting, seconded by Ms. Butler. There being no further discussion, the motion passed 7-0.**

**C. CPA2008-03 – Kreinbrink**

Mr. Badamtchian reviewed the staff report and noted staff's recommendation was to not transmit this to DCA.

Mr. Dave Depew, representing Dan Kreinbrink, distributed some graphics. He reviewed the project and graphics with the LPA. He reviewed comments in the staff report and why he felt the location was the right location for a commercial development for this particular area of the county as well as why he did not agree that it was "sprawl."

General questions and answers ensued between the LPA, staff, and Mr. Depew.

Mr. Andress asked if anyone from the public wished to comment on this item. Public input was received from:

Linda Redfern (opposed)  
William Redfern (opposed)  
Connie Dennis (opposed)  
BJ Gerald (opposed)  
Matt Smitz (opposed)  
Kelly Green (opposed)  
William Fields (opposed)

Ruby Daniels (opposed)  
Steven Brown (opposed)  
Steven Brodtkin (opposed)  
Janet Trippe (opposed)  
Ellen Peterson (opposed)  
Michael Stottlemyer (opposed)

Mr. Dave Depew addressed some of the comments made by the public.

Mr. Green referred to comments made by Mr. Depew regarding pressures to develop this area, but noted there were pressures in this room against developing this area. He noted it was inappropriate for the Local Planning Agency to plan and approve projects based on "pressure" as opposed to what is right for the County. He also noted this proposal does not coincide with the Vision Statement in the Lee Plan for Alva or Policy 1.4.1 of the Lee Plan, which requires that the rural areas remain rural with low density residential, agricultural uses, and minimal non-residential uses necessary to support the rural community.

Mr. Hutchcraft reviewed several sections of the staff report where he disagreed with staff's comments. He stated for the record that he believed more intensive uses are appropriate for this location, development and conversion of agriculture can be done in a manner that is supportive of this community, and he hoped at some point the community would begin to work more proactively on how they can make development take place in a manner that implements their vision rather than trying to prohibit development.

Ms. Johnston noted that not much discussion had taken place on the changing economic situations occurring all across the country or what type of economic development everyone might want to see in the future. Another issue that should be researched is one of supply and demand, which is difficult to determine at this point. She agreed with staff that this proposal is premature and speculative at this point in time.

Ms. Butler stated that although this would be a good location to put a commercial use since it is at two arterials, the public has stated this is a special rural area. The public has also emphasized the importance of preserving the integrity of the area and have stated there is a lack of need for commercial in this area. In addition, staff has made comments that this contributes to urban sprawl and that Highway 31 is projected to fail. For these reasons, she could not support this proposal at this time.

Mr. Inge stated that Mr. Hutchcraft had made some good points about pre-planning and property rights. However, he believed the timing was not right at this point in time for this project to be at this location. If he had more information on what was going to happen in this area, he might think differently, but at this point, it seemed too early for this proposal.

Mr. Andress stated that one day there would be some type of commercial development on this property. For the betterment of the community, it would be best that it be some type of mixed use so you can accommodate some commercial activity as well as the residential component. At this point, he could not support a proposal for a 40-acre subdivision in that area.

**Mr. Green made a motion that the LPA recommend against transmittal based on the findings of fact by staff, seconded by Ms. Call. There being no further discussion, the motion passed 7-0.**

The meeting convened at 10:20 a.m. for a ten minute recess and reconvened at 10:30 a.m.

#### **D. CPA2008-06 – Implementing DR/GR Study**

Mr. Inge previously filed Form 8B (attached) and submitted it to staff and the Attorney's office. Mr. Inge participated in the proceedings, but did not vote on the item.

Mr. Noble reviewed the staff report and recommendations.

General questions and answers ensued between the LPA and staff.

Mr. O'Connor noted the consultant's would be responding to the staff report. However, before that took place, he requested that Joe Shephard from the Florida Gulf Coast University be allowed to speak because he had to leave the meeting and would be unable to comment later. The LPA agreed to the request.

Mr. Joe Shepard, Vice President for Administrative Services and Finance for the Florida Gulf Coast University, referred to Map 14 on Page 59 of the report. He noted that letters B, D, and E are identified for mining only. The University staff finds this problematic in terms of their growth and mission. He explained that in the early 1990s a university envelope was created around the University. One of the conditions in that envelope was no mining. While these various pieces are outside that envelope, the intent was to develop more of a research university type environment. If mining is the only usage, it would have some limiting abilities on the University. He urged the LPA to strongly consider the recommendation of other land uses that would be more conducive to that region and in particular to the university envelope. His understanding was that staff's recommendation is to remove B, D, and E in terms of mining use only and he stated for the record that the University concurred with staff on that.

Mr. Jason King from Dover Kohl and Partners discussed staff's recommendations outlined in the staff report and the mixed use and rural communities. He gave a PowerPoint presentation.

Mr. Bill Spikowski also discussed staff's comments in the staff report, answered several questions posed by the LPA at the June 3<sup>rd</sup> meeting, and answered some comments made by the public as well as some additional comments he received since that time.

General questions and answers ensued between the LPA and the consultants.

Mr. Spikowski distributed some information by Roy Beckford, Agricultural Extension Agent. This information will be included in the Natural Resource report that will be completed soon. He noted Mr. Beckford had views on agriculture in Lee County and where it is going. His viewpoints are very much in keeping with those of their consulting team. Mr. Spikowski reviewed this information with the LPA and answered questions.

Mr. Andress made reference to some points of concern outlined by Mr. Inge in an e-mail to staff, which was discussed at the June 3, 2009 LPA meeting.

Mr. Inge reviewed the list of concerns (attached) and gave an update of the items that seemed to be addressed. He also reviewed the items that were not addressed such as: 1) mixed use communities; 2) Maps 14 and 20; 3) the mining provision; 4) primary and secondary water related impacts; 5) the Priority Restoration Map; and, 6) wetland permitting.

Mr. Andress referred to letters received by the public that were distributed to the LPA and asked how these written comments would be taken into consideration.

Mr. O'Connor stated staff would keep them in mind as they move forward and try to address them with whatever recommendation is made, but he did not feel they had to specifically answer each one.

Mr. Hutchcraft felt it was appropriate to provide staff with some direction and request that when this item comes back that there be a more strike-through based response. The revised staff report should address comments heard today and be in a strike-through fashion.

The meeting convened at 12:20 p.m. for a ten minute recess and reconvened at 12:30 p.m.

Mr. Andress asked if anyone from the public wished to comment. Public input was received from:

Matt Uhle, Lake Lincoln, LLC, Dave Urich, Responsible Growth Mgt. Coalition (in favor), Steven Brown, Conservancy of SW FL (in favor), Dave Depew, Troyer Brothers, Neale Montgomery, Old Corkscrew, Miromar, Cemex (opposed), Kim Jamerson, Jamerson Farms (opposed), Steve Hartsell, Richard Bennett Trust, The Fountains DRI, Nicole Ryan, Conservancy of SW Florida (in favor), Nicholas Batos (in favor) Bill Lytell, Corkscrew Rural Community (in favor), Linda Tanner, The Brooks (in favor), Brad Cornell, Audubon (in favor), Philip Douglas, Brooks Concerned Citizens (in favor), Kevin Hill, Corkscrew Rural Community (in favor), Marilyn Edwards, Brooks Concerned Citizen (ECCL) (in favor), Connie Carter, Family Property/Corkscrew Country Store (in favor), Jane Miller, Estero Citizens Association (in favor) Nancy Porter, Florida Wildlife Fed (in favor), Neal Noethlich, ECCL (in favor), Jack Meeker (in favor) Don Eslick, ECCL (in favor), Charles Basinait, Alico – Agr. Lmt., Premier Airport Park LLP, and Principal Financial Group (opposed), Roger Sims, Cemex, Tracy Bryant, Cemex, Darren Stowe, Cemex, Bob Murhere, RWA, Inc., Cemex, Mark Stephens, Cemex, and Tom McLean, Cemex (opposed)

The LPA made the following comments/requests of staff:

- Further research is needed for mixed use communities to see how there could be a balance of commercial, industrial, and residential uses that will be effective for these different properties that we want to take the density off of.
- The County needs to have an adequate TDR program especially since there will be a large number of TDUs that are going to need to be transferred.
- Further research is needed on historical water flows in the DR/GR area as many changes have taken place since 1953. If the County has a goal to restore historic water flows and levels, it might run counter to the fact that we have existing public wellfields in the area drawing that very same water out and pumping it all over the County.
- Provide the LPA with a map that includes the mining, residential, and mixed use areas, as well as the proposed roads on one map instead of several maps. The map should also include staff's proposed exclusions in the mining areas and the number of acres that will be left for mining.
- Provide answers to issues discussed today by the LPA and public in staff's updated staff report for next month's meeting.

Mr. Andress requested that LPA members write down any further questions they may have and send them to staff so they could have an opportunity to address these questions before the next meeting. He recommended continuing this item to next month's LPA meeting to give staff an opportunity to address issues raised today.

**Mr. Hutchcraft made a motion that staff take the input that they have heard from the LPA and public and be prepared at the next meeting to present their strike through and underline recommendations both in favor of additional changes or support of existing with special emphasis on the historic water levels, transfer of development rights, the tiered preservation, the location of mining, some of the agricultural impacts particularly in light of the IFUS Study, the mixed use community maps, and any other critical issues that came out of today's meeting, seconded by Ms. Butler. There being no further discussion, the motion passed 6-0. Mr. Inge abstained.**

#### **Agenda Item 9 – Other Business**

There were no further items of discussion.

#### **Agenda Item 10 – Adjournment**

The next meeting is scheduled for Monday, July 27, 2009, at 8:30 a.m. in the Board Chambers. The meeting adjourned at 2:40 p.m.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>DUNCAN, RONALD E.</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>LEE COUNTY Local Planning Agency</i>
MAILING ADDRESS <i>4571 Colonial Blvd.</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY    COUNTY <i>FOAS MYERS FL    LEE</i>	NAME OF POLITICAL SUBDIVISION: <i>LEE COUNTY</i>
DATE ON WHICH VOTE OCCURRED <i>6/3/09    6/22/09</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which injures to his or her special private gain or loss. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which injures to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on other side)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, Ronald E. Furr, hereby disclose that on 6/3/09 And 6/22/09, 2009

(a) A measure came or will come before my agency which (check one)

- injured to my special private gain or loss;
- injured to the special gain or loss of my business associate, \_\_\_\_\_;
- injured to the special gain or loss of my relative, \_\_\_\_\_;
- injured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- injured to the special gain or loss of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*CPA 2008-06, Implementing DR/GC Study,  
MAY AFFECT PROPERTY OF CLIENTS OF  
MY FIRM*

5/26/09  
Date Filed

[Signature]  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.



**Miller, Janet**

**From:** Ron Inge [ringe@landsolutions.net]  
**Sent:** Monday, June 15, 2009 3:11 PM  
**To:** Miller, Janet  
**Subject:** FW: DRGR Plan Amendments

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**From:** Ron Inge  
**Sent:** Thursday, May 28, 2009 5:49 PM  
**To:** 'Gibbs, Mary'  
**Subject:** DRGR Plan Amendments

I have had a chance to review the proposed amendments. I wanted to give you some thoughts on the proposals, not in any particular order, and not referencing any section, but by highlighting concerns.

- Pursuing mining in Tradeport area seems to run counter to the intent of the Tradeport area for development of uses supporting RSW and surroundings.
- Extinguishment of residential density for mined lands. Why is this done since lands remain that can be used? Provisions allow for transferability, but the locations are limited and no mechanism exists. One is proposed, but viability is undetermined.
- Mixed Use Communities to allow for density transfers. Too few identified. Plus, they are located on SR82 with road concurrency problems that have no resolution on the horizon. In addition, most if not all of them are in panther habitat which adds a significant level of review, time and cost to develop. May still be uneconomical in spite of density transfer ability and timing too far out due to concurrency.
- Overlay of AG uses and additions to AG designated lands conflicts with existing permitted mining operations.
- Language in plan as to preservation of AG uses and additions to AG lands on map, remove areas from excavation that create conflict with Map 14.
- Not all approved mines are on Map 14 and related GOP's so how does that get resolved.
- Adding review of planned future uses to new or renewed mining operations will add burden to staff, uncertainty to applicant and may cause focus to shift to future unpermitted uses that become problematic to main issue of submittal.
- Does analysis of primary and secondary water related impacts at local and watershed level add so much to the cost and become unwieldy as to be impractical to analyze.
- Table A and Table 1(b) acreages and identified locations may be incorrect and eliminate approved locations.
- Restriction of mining to Map 14 may create Harris or other types of takings claims due to elimination of the major allowed use in DRGR.
- Not sure how to figure out how to get new mine operation permits given the table acreages and how this is handled under Policy 30.1.4, etc.
- Proposal stresses recycling operations, but no help on where this can happen.
- Priority Restoration map may have some takings exposure due to cloud on use and that map will become pseudo-regulatory.
- New policy that outlined a resource extraction mitigation fee may not be lawful.
- Designation of Mixed Use Community locations and removal of ability on other DRGR lands again may have takings implications by eliminating one of the major allowable uses in DRGR.
- TDR concept is neat, but no funding source, no mechanism outlined, have limited locations to move, may be uneconomical. Further, it is very difficult to get allowable densities now through zoning process, so this may eliminate TDR as vehicle since you don't gain over what theoretically is allowable.

- Should Mixed Use Communities have updates to commercial site locations map?
- Policies for elimination of isolated wetlands is a great idea, but has to be acceptable to state and federal agencies, otherwise it is of no use. Mitigation at state and federal level may make this too costly.
- Policies in section (d) seem to get county back into business of regulating wetlands, so now there will be three levels of trying to balance wetland issues as was long ago.
- Wetlands maps done by expert review of aerial data—this needs to be able to be overcome by field work. Concern about designation and affects of the designations.

I wanted to get these to you early to save some time from having to ask them at the meeting and you not having time to think.