

**MINUTES REPORT
LOCAL PLANNING AGENCY
April 23, 2012**

MEMBERS PRESENT:

Noel Andress (Vice Chair)
Wayne Daltry
Jim Green
Mitch Hutchcraft

Ron Inge (Chair)
Ann Pierce
Roger Strelow

STAFF PRESENT:

Kathie Ebaugh, Planning
Rick Burris, Planning
Donna Marie Collins, Asst. Cty. Atty.
Brandon Dunn, Planning

Janet Miller, Recording Secretary
Matt Noble, Planning
Paul O'Connor, Planning Director

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

Mr. Inge, Chair, called the meeting to order at 8:30 a.m. in the Board Chambers of the Old Lee County Courthouse, 2120 Main Street in downtown Fort Myers.

Ms. Collins, Assistant County Attorney, certified the affidavit of publication and stated it was legally sufficient as to form and content.

Agenda Item 2 - Pledge of Allegiance

Agenda Item 3 - Public Forum - None

Agenda Item 4 – Approval of Minutes – March 26, 2012

Mr. Andress made a motion to approve the March 26, 2012 meeting minutes, seconded by Mr. Daltry. The motion was called and passed 7-0.

Agenda Item 5 – CPA2011-00018 Corkscrew Woods

Mr. Dunn reviewed the staff report and recommendations.

Mr. Noble reviewed several maps to identify characteristics that are unique to the amendment.

A PowerPoint presentation was provided to the Local Planning Agency by Neale Montgomery, David Brown, professional geologist registered in the State of Florida, Ken Passarella from Passarella and Associates, Dave Depew from Morris and Depew, and Joe Cameratta (Applicant).

Staff confirmed that Natural Resources staff reviewed the models that Mr. Brown talked about and are satisfied with their technical validity. They were actively involved in the review of this amendment and a memorandum from them was included in the LPA's packets.

General questions and answers ensued between the LPA, staff, the applicant, and the applicant's representatives.

Mr. Inge opened this item for public comment. Public input was received from Nancy Payton (Florida Wildlife Federation), Jeremy Frenz (Conservancy of SW FL) who read comments by Don Eslick into the record, and Nicole Johnson (Conservancy of SW Florida).

Mr. Andress felt that issues raised by Mr. Eslick and Ms. Johnson are addressed at the zoning stage instead of this forum. The LPA is merely reviewing whether or not it is appropriate to amend the Future Land Use Map to allow 800 units on this site. **He made a motion to recommend Alternative 2 outlined in staff's recommendation and to also recommend transmittal of CPA2011-00018, seconded by Mr. Hutchcraft for discussion.**

Mr. Hutchcraft felt it was appropriate to address that the wetland in the northeast corner be excluded from the calculations as requested by Nancy Payton. He agreed with the determination that those other wetlands should be additive because they are not connected.

The applicant agreed that isolated habitat would not be counted.

Mr. Green felt the general concept was great and it is an environmentally preferred solution over the current alternative, but he was not in a rush for this to get transmitted. He noted much time had been spent in the DRGR effort and he was not convinced that this proposal was in line with those efforts. Mr. Green felt a lot of additional data had been submitted recently that needed more analysis. He referred to Page 37 where the credits are outlined and felt there were unanswered questions such as: "What is the basis for it?" "How did they come up with the figures?" He also noted there was supposedly rationale for giving the developer 400 units, however, he did not see offsets to density or reduction elsewhere.

Due to a question by Mr. Inge, it was clarified that staff did review the analysis and that it was generated by County staff as they went through the process.

Ms. Pierce felt staff did a good analysis, but noted it was received by the Board late making it difficult to have ample time to review it. She agreed with Mr. Green's concerns on how staff derived at these valuations. She was concerned with the value of credits given because it sets a precedent. Although there were benefits to this proposal, she was concerned with the possibility of having 1,100 more cars on that road 3 ½ miles east of the Interstate.

Mr. Hutchcraft complimented staff and felt they evaluated this project from a variety of perspectives. He stated it was a reasonable incentivized approach to achieve the outcomes that we all want.

Mr. Daltry discussed the findings of fact and felt it should include a basic statement that this was an overlooked site when staff was doing their initial review of the DRGR. However, he did not feel that this overlooked site would change the overall thrust of the DRGR because there is a lake and we are talking about managing the resources in a designated part of the county for water resources. The presence of the lake and inclusion of the property in that resource management program is important, but it is the Finding of Fact of the designation that sets forth a predicate. He stated this was why we are giving special treatment to this area. In addition, there should be a finding of fact that the County's available fiscal resources do not enable it to make the investment to reduce this site to 1 unit per 10 acres or taking away 184 development units. This is another reason the County should give this site particular treatment even though it has a DRGR designation. If these are Findings of Fact, he was comfortable moving forward. Another issue is whether or not this site is reallocating units or creating new units. If we are creating new units, then that is a finding of fact and a conclusion that we will be adding 1200 people which affects the population forecast for the county.

Mr. Noble explained why staff assumed that this would be all new units, however, he noted this would all have to be worked out during the zoning process. Mr. Noble explained that he was having trouble finding the fact on the total because he is not sure what methodology will be used to achieve the density on the subject site until it goes to rezoning.

Mr. Strelow understood everyone's concerns and agreed with some of them, but he was not sure that a substantial delay would get everyone the certainty they would like to have. He felt the process that led to this proposal has a lot of integrity and credibility as appropriate professionals have been involved. In addition, many decisions are yet to be made as part of the zoning process. The proposal today merely lays the groundwork. With these factors considered, it seemed reasonable and appropriate to him for the LPA to vote approval rather than delaying this further.

The motion was called and passed 5-2. Mr. Daltry and Mr. Green were opposed.

Due to a question by the recording secretary, Mr. Inge clarified that the comments by Mr. Hutchcraft on excluding the northeast corner from the calculations was not included as part of this motion.

Staff clarified that they would include Mr. Daltry's comments on including the fiscal aspects of the Findings of Fact when they write up the LPA's review comments.

The LPA took a recess at 11:11 a.m. and reconvened at 11:19 a.m.

Agenda Item 6 – Land Development Code Amendments

A. Lee County Wind Borne Debris Region and Basic Wind Speed Maps

Mr. Bob Stewart, Building Official, presented this item. He noted that the State of Florida had updated a version of the building code. As part of this updated version, new wind speed maps were included. Local government is tasked with taking those maps and associating the lines on the maps with some regular recognizable geographic features such as roads, streams, and canals. This is mandatory via the building code to help make sense of the maps. He reviewed the maps with the LPA.

General questions and answers ensued.

Mr. Address asked staff to review the concerns expressed by the Building Industry regarding these new regulations.

Mr. Stewart stated the concerns dealt with confusion caused by misinformation. It is confusing because the American Society of Civil Engineers did a different methodology for determining pressures using some ultimate design wind speeds. However, despite this, the pressures end up being essentially the same as when they were under the 130. The Building Industry did not understand why this had to be changed, but it was changed because the American Society of Civil Engineers felt it was better.

Mr. Inge opened this item for public comment. No public input was received.

Mr. Daltry made a motion to find this consistent with the Lee Plan, seconded by Mr. Address. The motion was called and passed 6-0. Mr. Hutchcraft was absent during this vote.

Agenda Item 7 – New Horizon 2035: Plan Amendments

A. CPA2011-00011 – ICE Intergovernmental Coordination Element

Ms. Ebaugh reviewed the staff report and recommendations.

General questions and answers ensued.

Page 1 of Attachment 1 (Recommended Text)

Ms. Pierce referred to Policy 1.1.1 and requested the word “*coordinated*” be substituted with “*mutually beneficial*.”

Page 2 of Attachment 1 (Recommended Text)

Ms. Pierce referred to Policy 1.1.4 c. at the top of page 2 and requested the words “*public transit*” be inserted between the words “*utilities*” and “*parks*.”

Mr. Inge felt the verbiage should mention transportation in general not just public.

Ms. Pierce stated that transit and transportation are two different entities. She was in favor of adding both.

Ms. Pierce referred to Policy 1.1.5 and requested the words “*mutually beneficial*” be inserted between the words “*administer*” and “*interlocal*.”

Page 3 of Attachment 1 (Recommended Text)

Ms. Pierce referred to Policy 1.2.6 on Page 3 and Policies 1.3.1 and 1.3.2 on Page 4 and requested that “*water reuse*” be added to the listings in all three policies.

Page 4 of Attachment 1 (Recommended Text)

Mr. Daltry noted a scrivener’s error with regards to Objective 1.4 Aviation Coordination. There appeared to be a duplication because this objective is listed twice.

Ms. Ebaugh stated staff would correct this.

Mr. Inge opened this item for public comment. No public input was received.

Mr. Green made a motion to find CPA2011-00011 consistent with the Lee Plan and to include all amendments mentioned during today’s discussion, seconded by Mr. Daltry. The motion was called and passed 7-0.

B. CPA2011-00012 – Parks and Recreation and Open Space Element

Ms. Ebaugh reviewed the staff report and recommendations.

Ms. Barbara Manzo thanked staff for the work they had done on this element. She noted that Parks and Recreation staff took this opportunity to take many years worth of additions/changes to the plan and come up with something consistent for Parks and Recreation, particularly from their perspective in the operation of public Parks and Recreation.

Page 1 of Attachment 1 (Recommended Text)

Ms. Pierce noted there was language in the document regarding quality of life, but no specific goal for allowing people to connect with nature.

Staff stated they would try to revise the language. They felt this was included as part of Objective 2, but they would work on it further so that it was more clearly defined.

Mr. Inge stated it was great to “encourage,” but he did not want it written as a “requirement” where there would be a connectivity standard.

Staff stated they would create a general policy for this issue.

Page 2 of Attachment 1 (Recommended Text)

Mr. Inge referred to Policy 1.1.5 and asked how staff defines “*encroachment*.”

Ms. Manzo stated this particular encroachment from staff’s perspective is strictly removing encroachments that do not belong on existing park land. This does not deal with anything next to the property.

Mr. Inge felt more clarity was needed and suggested staff say “...*protecting against physical encroachments*.”

Staff stated they would revise the language.

Mr. Inge referred to Policy 1.2.1 and asked for clarification on whether the natural preserves would be established on public or private land.

Staff stated it would be established on public land. Staff agreed to amend Objective 1.2 by adding the word “*public*” before “*natural preserve*” so that it reads, “...through **public** natural preserve and conservation lands.”

Page 3 of Attachment 1 (Recommended Text)

Per Mr. Address’ request, Ms. Manzo gave an update on how close the County was to meeting Policy 1.3.1.

Mr. Address asked if additional language should be incorporated that would allow the County to utilize land owned by other municipalities in order to meet that criteria.

Ms. Manzo felt this should be looked into further. Currently, Lee County cannot control what the federal and state governments or other municipalities do in their incorporated areas. Lee County only controls the unincorporated areas. Because of this, staff removed specific wording that included city, federal, and state lands and made it more of a general statement. However, she noted that in the concurrency staff will take a closer look at who owns what parcels and what acreage they have.

Mr. Inge referred to Item a. under Policy 1.3.1 and asked if “*open for public use*” was a new phrase.

Staff stated it was a new phrase. This new phrase was included because the County added conservation lands. However, only the portion that is for public use gets counted. The Regional Park is added in its entirety, but with conservation lands you only count the portion that is open for public use.

Mr. Inge felt the language in that section should be clarified.

Page 4 of Attachment 1 (Recommended Text)

Ms. Pierce referred to the listing under Policy 1.4.2 and felt staff should add an additional item as follows:
h. shaded areas.

Ms. Manzo stated she would amend Item g. to read, “Pavilions/Shaded Areas.”

Page 5 of Attachment 1 (Recommended Text)

Ms. Pierce referred to the third line under Policy 1.5.1 and asked that the word “*safe*” be included since this section addresses pedestrian and cyclist issues.

Page 6 of Attachment 1 (Recommended Text)

Mr. Hutchcraft referred to Policy 1.5.5 and felt the language was too broad. The way it is currently written makes it sound as if the County will be enhancing the appearance of all county roadways. He suggested saying, “*Encourage* enhancing the appearance of the county’s “*targeted*” roadways...”

Ms. Manzo stated this would take further review before the language can be changed because it deals with the LeeScape Master Plan.

Mr. Hutchcraft also expressed concern with how this section might affect private properties.

Ms. Ebaugh stated the Greenways Master Plan is addressed in both the public and the private because the County recognizes it has components of both. However, she noted staff would take a look at making this language more clearly defined.

Ms. Manzo referred to Item e. under Policy 1.5.6 that deals with non-motorized multi-use trails and stated the language may need to be revised due to new ADA regulations regarding the use of segways and other motorized assisted devices on trails.

Mr. Hutchcraft felt language in Policy 1.6.2 should be clarified because he did not know what was meant by “*reclaiming legally county owned property water accesses.*” For instance, does the county own **illegally** owned property?

Mr. Inge referred to Item a. under Policy 1.5.6 and felt the words “*where possible*” or “*where feasible*” should be added as there may be instances where this requirement may not be practical.

Mr. O’Connor stated this policy is not a mandate but rather something that is merely suggested.

Page 7 of Attachment 1 (Recommended Text)

Ms. Pierce referred to Item b. under Policy 1.7.1 and felt “*particularly with local governments*” should be added at the end.

Staff felt this was already explained in the Objective 1.7 and the beginning of Policy 1.7.1 that says, “...**local**, regional, state, Federal and private agencies and organizations...”

Ms. Pierce still felt it should be added to Policy 1.7.1 b. as well.

Page 8 of Attachment 1 (Recommended Text)

Mr. Daltry referred to Goal 2 and stated sections like this usually require some sort of management system be created especially if the facility will have a lot of public activity. This section will involve higher or additional policing/management. He suggested staff amend the Administrative Code under the heading of “*Civic Place*” to designate the responsibilities so that we can foresee what needs to be done to manage these places where it is a public/private partnership. He also referred to Objective 2.1 and felt the same sort of language designating responsibility would be needed in this section as well.

Staff referred to Policies 2.1.1 and 2.1.2 and noted they both mention modifying the Land Development Code. Staff stated they would add “*and Administrative Code*” as well.

Mr. Daltry stated staff should make sure they provide a role for community planning organizations as part of those amendments.

Page 9 of Attachment 1 (Recommended Text)

Mr. Hutchcraft referred to Objective 2.2 and noted that although the policies deal with mixed-use land uses, the objective itself does not limit it to mixed-use. Therefore, he felt the language should be clarified so that it is clear that it addresses mixed-use only.

Ms. Pierce referred to Item e. under Policy 2.2.1 and requested the word “*safe*” be added before the word “*pedestrian*.” She also referred to the last line in Objective 2.3 and requested the word “*safe*” be added before “*multi-use*.” Lastly, she referred to the first line of Policy 2.3.1 and requested the word “*safe*” be added before “*multi-use*.”

Ms. Pierce requested the word “*shade*” be incorporated anywhere that multi-use path(s) is mentioned.

Discussion took place regarding language in Policy 2.1.4 in particular the portion that mentions Lee County continuing to require impact fees for regional and community parks.

Ms. Collins stated that maintaining the language as is would create a legal issue for the board if they attempted to suspend or eliminate impact fees because they would be in violation of their plan. She suggested staff consider different wording if they desire to keep the door open to suspension or elimination of impact fees in the future.

Some board members did not agree with the language that claimed “*park impact fees are the most equitable means of capturing these costs.*”

Ms. Collins felt the second sentence could be removed because the first sentence allows a broad array of options to accomplish the goal making sure that development bears its proportionate responsibility for the provision of parks.

Page 10 of Attachment 1 (Recommended Text)

Mr. Hutchcraft referred to the list under Policy 2.3.4 and stated he was unsure that every proposed development would be able to satisfy one of the four options listed. He felt it would be more appropriate to say “*encourage improvement*” as the words “*will improve*” signifies a requirement.

Mr. Inge referred to Policy 2.4.2 and asked if it was a mandate since the word “*ensure*” is used.

Ms. Ebaugh stated it was meant to be an encouragement.

Mr. Inge suggested replacing the word “*ensure*” with “*encourage.*”

Mr. Noble stated staff forgot to include Policy 77.3.3 which is a current policy in the Lee Plan. It was omitted in error. He read the policy into the record and noted this policy needed to be continued into the new document because the Board of County Commissioners directly told staff to add it to the plan.

Mr. Inge opened this item for public comment. No public input was received.

Mr. O’Connor noted that all changes made by the LPA were acceptable to staff so he was comfortable with the LPA making one motion to include all the changes. The only item he requested be singled out was the discussion on Policy 2.1.4 dealing with impact fees.

Mr. Address made a motion to recommend transmittal of all changes discussed today with the exclusion of the impact fees which will be handled as a separate motion. The motion will also include Policy 77.3.3. Mr. Daltry seconded the motion. The motion was called and passed 7-0.

Mr. Address made a motion to remove the second sentence in Policy 2.1.4, seconded by Mr. Hutchcraft. The motion was called and passed 5-2. Mr. Daltry and Ms. Pierce were opposed.

Agenda Item 8 – Promoting Green Planning Initiatives

Discussion took place regarding an article that Mr. Strelow had distributed to the LPA regarding opposition to local government adopting or promoting green-based initiatives. Mr. Strelow presented the item and noted that it was being adequately handled by the Sustainability Committee but that he wanted people to be aware of it.

Mr. Inge explained the public concern and misunderstandings that are taking place regarding this issue.

Mr. Hutchcraft stated that most people agreed there were sustainability initiatives that make sense but there are also times when people must evaluate all things proposed in totality so that things do not go too far. He wanted to make it clear that opposition of sustainability does not necessarily link you to tea party right wing radicalism, which was the perception he got from this particular article. As a result, he was not comfortable with the intent of this article.

Mr. Strelow stated there are always legitimate objections to any number of specific initiatives. The point he wanted to get across is that individual public organizations, counties, and cities are implementing certain sustainability initiatives. He was not aware of any municipalities that were interpreting it as a mandate. The United Nations does not have any influence over local governments. It is up to the individual counties/cities as to what they will implement. By definition, the term “sustainability” calls for a balancing of various factors such as social, economic, and environmental.

Agenda Item 9 – Other Business

Mr. Inge referred to the “Sustainability” definition provided to the LPA as part of this month’s meeting packet. He asked if there were any comments or discussion points on this definition.

Mr. Daltry stated the definition currently reads, *“The process of directing growth so that it meets the needs of current residents without compromising the needs of future residents.”* He felt it should be changed to read, *“The process of directing growth so that it meets the needs of future residents without compromising the needs of current residents.”*

Mr. Green agreed with Mr. Daltry’s recommended change.

Mr. Hutchcraft stated his concern was that with the current way it is written he did not know how an applicant would ever be able to demonstrate that their project did not impact the needs of future residents.

Mr. Strelow felt this merely encouraged people to think of the implications of a given pattern of resource consumption and how it might affect future generations. He did not see it as a mandate. For instance, trees are not being cut down nearly as much as in the past due to the internet and the fact that we no longer need as much paper.

Mr. Inge was concerned with the term “undermining” that is used as part of the definition. He stated it was a matter of perception because one additional resident theoretically undermines the resource base. He stated these definitions set the framework for how we view and interpret the other provisions and policies which are all designed to be interpreted and administered reasonably. However, the County needs to be careful with how something is written because it leaves it open to interpretation.

Staff clarified that this definition would be brought before the LPA at a later date when the Glossary will be presented.

Agenda Item 10 – Adjournment – Next Meeting Date: Thursday, May 31, 2012

Mr. Andress made a motion to adjourn. The meeting adjourned at 12:35 p.m.

The next Local Planning Agency meeting is scheduled for Thursday, May 31, 2012, at 8:30 a.m. in the Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL 33901.