

**MINUTES REPORT
LOCAL PLANNING AGENCY
May 31, 2012**

MEMBERS PRESENT:

Noel Andress (Vice Chair)
Wayne Daltry
Jim Green

Ron Inge (Chair)
Ann Pierce
Roger Strelow

ABSENT:

Mitch Hutchcraft

STAFF PRESENT:

Kathie Ebaugh, Planning
Rick Burris, Planning
Donna Marie Collins, Asst. Cty. Atty.
Brandon Dunn, Planning
Pamela Keyes
Dave Loveland, DOT

Janet Miller, Recording Secretary
Matt Noble, Planning
Paul O'Connor, Planning Director
Roland Ottolini, Natural Resources
Mikki Rozdolski, Planning
Gloria Sajgo, Planning
Emma Wolf, Budget Services

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

Due to a request by Ms. Pierce, Ms. Collins clarified a statement she made in the April 23rd meeting minutes when the Board was discussing impact fee language in Policy 2.1.4.

Mr. Andress made a motion to approve the March 26, 2012 meeting minutes, seconded by Mr. Daltry. The motion was called and passed 6-0.

Agenda Item 5 – Capital Improvement Program

Ms. Emma Wolf presented this item and stated staff was available for questions.

General questions and answers ensued regarding: 1) Project 33 (Alico Road Multi-Laning); 2) how much gas tax the county receives each year; 3) Project 21 (Powell Creek Hydrological Restoration); 4) Prairie Pine Restoration; 5) Charlotte Harbor TMDL Compliance; 6) Gator Slough Channel Improvements; 7)

Pine Island Operations Building; 8) Pine Island Sewer Plant; 9) funds to do a transmission line to the north end of the island.

Mr. Dave Loveland reviewed the budget for maintaining the county's roads.

Mr. Daltry distributed some handouts and reviewed them (attached). He reviewed Policy 38.1.8 from the handout and stated his concern was that it implies that new development should pay for road widenings. He referred to Project 33 and noted it had developments approved on both sides and that a gas tax is being used to make the road improvement. He preferred that the language mention MSBU and impact fees.

Mr. Loveland stated that local option gas taxes are allowed to be used on road widening. He noted the County has not created an MSTU/MSBU in this area for widening the roadway so the balanced CIP could not show that as a funding source; however, it is an available option.

Mr. Inge suggested the funding source be changed on line 33 (project 205075) to say, GT,I,M so that there is a variety of sources.

Mr. Loveland stated the LPA was welcome to recommend the Board consider an MSTU for this area; however, he could not currently show this option in the CIP because it would be misleading if it has not been established by a formal board action. He explained this CIP can only show available existing revenues. Regarding impact fees, if they were generated in this district, he could apply them to an improvement like this regardless of the funding source because it is in the CIP. It would be considered in an update of the impact fee ordinance because that is the actual cost of projects, regardless of the funding source, that we spend capital funds on that is used as a basis for getting at what the rate should be for individual developments.

Mr. Daltry recommended changing the funding source for project 33 to "GT/I." He also recommended the Board be asked to consider an MSTU/MSBU.

Due to a question by Mr. Daltry regarding the section that reads, "*Total Projected costs are all past expenses, current budget and all proposed budgets,*" it was clarified that it starts at the 1997/1998 fiscal year and is for a 10 year period.

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

Mr. Andress made a motion that the fiscal year 12/13 through 16/17 Capital Improvement Program for Lee County be found consistent with the Lee Plan, seconded by Mr. Green for discussion.

Mr. Green asked that Mr. Daltry's recommendation be included.

Mr. Daltry reiterated that he would like to add a recommendation specific to Project 33. The funding source for that project should be changed to add impact fees. In addition, the LPA asks the Board to consider an MSTU/MSBU for that area as outlined in Policy 38.1.8 of the Lee Plan.

The motioner and seconder agreed to the amendment. The motion was called and passed 6-0.

Mr. Inge announced that Ms. Pierce had an item she wished to bring forward before the Board moved on to the next agenda item.

Ms. Pierce expressed concerns regarding the upcoming schedules for June and July for the EAR elements update. She felt they were important issues that would require more than one meeting as they would need credible review and analysis. She suggested having a workshop for each of the elements and that she would be willing to meet as often as necessary. She also suggested there be an on-line forum for public input.

Mr. O'Connor reviewed the established schedule for the elements which was shared with the LPA in November 2011 and again in February 2012. He recommended staying on schedule as staff told the Board they would be presenting something to them in the Fall. However, Mr. O'Connor noted that if the LPA feels they are not given enough review time, they are welcome to continue the items at that time.

After further discussion, the LPA decided to keep the schedule as is and if the LPA feels more time is needed, they can address a continuation at that time.

Agenda Item 6 – Land Development Code Amendments

Ms. Nettie Richardson presented this item.

Ms. Mikki Rozdolski gave an overview of the changes to the Page Park ordinance.

Mr. Inge referred to item b on Page 10 under Section 33-1203, which outlines the necessity to have a meeting with the community to talk about various issues. However, in Section 33-1204 below it, it says that an existing approved master concept plan can voluntarily come into compliance with the community plan and no public hearing will be required. It was not clear to Mr. Inge whether there needed to be a community meeting or not.

Ms. Rozdolski stated the provision in Section 33-1204 referred to the fact that there would be no public hearing in front of the Hearing Examiner or Board of County Commissioners. It would be handled administratively. However, you would be required to have a public input meeting with the community. Ms. Rozdolski stated she would have to check and see exactly what type of applications the community would like to review because all of the communities have different expectations on what they would like to see. If administrative amendments are one of those, it would be required that they have a public input session.

Mr. Inge thought this might discourage voluntary compliance on occasion if it is not made easy for them. For instance, it would be difficult if the neighbors might be against something that the code allows an applicant to do. He felt this could be an uncomfortable situation for the applicant.

Mr. Andress stated community meetings were very important and he did not want to see that eliminated.

Discussion took place regarding recommendations made by the Horizon Council. It was clarified that their recommendation was to eliminate community meetings solely for development orders as opposed to zoning, rezoning, and comprehensive plans. The reason for this is that development orders are more of a technical compliance with the rules and regulations with the County whereas the other processes are the broader picture.

Mr. Andress stated that development orders have an impact on the community and the public has a right to hear and review those proposals.

Ms. Pierce noted that public meetings have always been the way to receive public input. However, she reiterated the importance of having a formalized on-line solicitation for input. She noted there were several reasons people do not attend meetings such as logistics, constraints of time, and physicality. However, they have legitimate and specific input that could best be given on-line. She noted this is something that is being done all over the world.

Ms. Richardson gave an overview of the Estero ordinance changes.

Mr. Inge opened this item for public comment.

Mr. Jack Lienesch, Chairman of the Community Planning Panel in Estero, gave background information on issues the community had with signage in the area and why they were requesting changes to the sign regulations.

Mr. Strelow asked Mr. Lienesch to provide comments on the issue relating to public input at the development order stage.

Mr. Lienesch felt that some of the recommendations by the Horizon Council were good ones. He noted that for the last 10 years the focus of the Estero Community Planning Panel has been to never delay the process for applicants. They created a Design Review Committee who meets with the applicants and reviews their detailed plans. He was proud of what they had accomplished in their community to make it special and he did not want to lose the public hearing review and the input of the experts on the Design Review Committee that has helped many developers in developing their property and preparing the architectural and landscaping plans. He acknowledged, though, that since the Estero Community Planning Panel was first created, several other community panels have been created and all of them have their own plans and process, so he agreed that the County should simplify what is required in the zoning hearings. However, he noted that the problem with only having public input at the zoning process is that during that process most applicants do not have specifics or a specified design. They usually have only an outline drawing with no idea of what the project will end up looking like. All of the specifics are at the development order stage, which is why the public wants to provide input at that phase.

Mr. Green agreed with Mr. Andress that he was in favor of the public having meetings so they can understand the development order being proposed. He also noted there have been instances where a particular project, such as Broadlands, will not have a zoning hearing or comprehensive plan amendment process. In the instance of Broadlands, a development order containing 250 home sites was approved in Alva with no review by the community.

Ms. Pierce noted there are also instances where stop bars are located in the wrong spots causing a number of accidents for bicyclists and pedestrians. Even though an applicant is complying with the zoning codes, the stop bars are not placed in the most appropriate spots causing a dangerous situation. This causes an increase in cost because citizens and county staff have to review the situation and the stop bars have to be relocated instead of it being done correctly the first time. She noted regulations are never perfect and every physical situation is different.

Mr. Strelow agreed with the approach of the Estero Community Planning Panel to not create big delays. Issues that are not relevant or have already been heard and resolved could be handled quickly. He felt it was false to think that by having public review and input at the development order stage that it will prolong things. He was in favor of putting strict limits to the extent a project can be dragged through a process, but was not in favor of eliminating public input completely.

Ms. Richardson noted that this issue was not before the LPA for discussion today. If the Board of County Commissioners decides to go back and amend all the community plans and remove some of the requirements for development orders or administrative actions because of the Horizon Council recommendations, this will be brought back before the LPA by way of Land Development Code amendments.

Mr. John Sibley, Co-Chair of the Page Park Planning Panel, encouraged the LPA to approve the language that was submitted. Regarding discussion about public input, he noted that the intent for Page Park specifically was to minimize the lengthy and costly development order process by having people come to the community to present their changes.

Due to a question by Mr. Inge, Mr. Sibley confirmed that even if someone comes in for voluntary compliance with the regulations, he felt they should still be required to have a community meeting.

Ms. Richardson requested the LPA vote on the Page Park and Estero amendments separately because there were attendees who needed to leave.

Mr. Andress made a motion to find the Page Park and Estero proposed changes consistent with the Lee Plan, seconded by Mr. Strelow. The motion was called and passed 6-0.

Mr. Inge asked staff to keep his comments on the voluntary compliance issue in mind by making sure we make it easy for applicants to do.

Ms. Richardson reviewed the proposed changes for the Captiva plan. She referred to Section 33-1621 on Page 18 relating to septic tanks and noted that staff was not in support of this proposed language. She noted there had been legislation signed off by the Governor recently that does not allow the county to be responsible for this. The Health Department is responsible for the inspection of septic tanks. However, the consultants and community want to have it in here so that it is brought to the Board's attention that this issue is important to them.

Due to questions by Mr. Andress, Ms. Collins clarified this is a legal issue and that local governments are preempted by the State to regulate the inspection of septic tanks. The County may only enforce the regulations that have been adopted by the state. In this particular instance, local government does not have the right to enact its own ordinance. You can only enact your own ordinance if it completely mirrors what the State has adopted, but the legislation is clear on what the inspection periods are and how it is to be conducted. Local government may enforce those regulations, but not adopt their own that are in conflict with them.

Mr. Strelow referred to the statement that requires pump out documentation prior to the issuance of a permit and asked if this was something the County does.

Ms. Collins stated the County would be adopting an ordinance that incorporates the State's guidelines in connection with the implementation of this program so the documentation that is required by the State set forth in the bill will be incorporated into the ordinance the County is going to adopt. It will be enforced in that manner.

Mr. Andress asked how this would apply to municipalities if the County adopts the ordinance.

Ms. Collins believed municipalities would have the option to opt in if they wish. She noted the County could force the municipalities to participate, but that she did not know what the will of the Board was on this issue as they have not expressed an intent at this time to force municipalities to participate even though legally it is an option available because Lee County is a charter county.

Ms. Richardson referred to (D)3) on Page 19 and noted staff did not support this amendment which relates to the time period for when someone can lease a unit. The community wants it to be 7 days. Ms. Richardson noted there was no way the County's Code Enforcement Officers would be able to be out in the community to figure out how long someone has been there or not been there. It would be difficult to enforce. She then reviewed the remaining changes and noted that staff recommended the LPA find it consistent with the Lee Plan except for the two items she mentioned above.

Mr. Strelow noted there are several statutes on the books and ordinances in any jurisdiction that may be harder to enforce than others, such as using seat belts; however, you do not just eliminate the rule because you cannot easily enforce it. He noted this issue is important to the community and came from them. Having it in the ordinance, would allow someone to gather information and report it to the County. Even if the County chose not to follow-up on the report, they would still have a source of information. He felt the County might be too quick to eliminate this by stating it is not easy to enforce.

Mr. Inge noted it was a matter of personnel and budget.

Mr. Andress stated that even though it may be hard to enforce he felt it should remain in the ordinance if it was the Community's desire.

Due to a question by Mr. Green on whether there was a legal downside to adopting this if it is not strongly enforced, Ms. Collins explained this was more in the nature of a private restrictive covenant. The County does not have the resources to enforce it as it is way beyond the core level of services. It can be adopted and be on the books, but it is unrealistic to think there is hope it will be enforced.

Mr. Inge opened this item for public comment.

Mr. Max Forgey, Planner for the Captiva Community Panel, noted they had worked on this for three years and that it was a slow and deliberate process. He noted they had worked with people in Captiva as well as County staff. He reviewed the relationship of this document to the Lee Plan. He reviewed the 7 day rental issue.

Mr. Ken Gooderham, Executive Director for the Captiva Community Panel, referred to discussion on the septic tanks and noted they were not asking the County to regulate anything. They are asking the County to add a checklist item on a building permit request. When someone comes in to ask the County's permission to do something, they could show when they last had their septic tank pumped out. They are not asking the County to inspect these systems. Regarding the 7 day rental, they do not expect staff to enforce this by watching it. However, it will allow people who are concerned about this activity on the Island to gather information and bring it to Code Enforcement and ask them to act on it. It is going to be self regulatory. On the public input issue, Captiva put certain public meeting requirements in the Lee Plan, which has enabled more people to get involved by having the meetings held in the community as opposed to downtown Fort Myers. He noted they have not required the public input be during the development order stage. He encouraged staff to keep public meetings in the community, but to handle it on a community by community basis as they do not all have the same issues and needs.

Mr. Daltry referred to Page 18 and asked Mr. Gooderham if his intent would still be met if the applicant provided written documentation and most recent OSTDS pumpout by a licensed septic contractor. This would allow them to have their box checked and also have records on the length of time it is happening.

Mr. Gooderham felt this might be sufficient particularly since they studied the water quality situation on the Island to a point where they can identify the hotspot areas. As long as something is in the language to address this issue, he was not against removing the reference of the two years.

Mr. Green made a motion to find the document provided by the community to be consistent with the Lee Plan, seconded by Mr. Daltry.

Ms. Pierce asked if we could adopt the language suggested by Mr. Daltry that eliminates the reference of two years which would be in direct conflict with state regulations and just request the documentation of the last time it was done.

Mr. Daltry referred to Section 33-1621 on Page 18 and revised the language to say, *"prior to the approval or issuance of any development order, zoning, or building permit, the applicant shall provide written documentation of the most recent OSTDS pumpout by a licensed septic contractor."*

It was clarified by Mr. Inge that **the motion also includes the community's recommendation on Section 33-1626 subparagraph (D)3) regarding the rental period for units.**

The motioner and seconder agreed to the amendments. The motion was called and passed 6-0.

Mr. Inge referred to Section 33-1621 pertaining to the discussion of adding development orders in for public meetings. Although he voted in favor of the motion so that the community could have what they wanted, he was concerned about this provision and how the Board might view it.

The LPA took a 10 minute recess and reconvened at 10:50 a.m.

Agenda Item 7 – New Horizon 2035: Plan Amendments

The order of the agenda was altered so that Item B was discussed first.

B. CPA2011-00009 – Historic Preservation

Ms. Sajgo reviewed the staff report and recommendations.

General questions and answers ensued.

Mr. Strelow referred to language on Page 4 that says, *"Preservation is demonstrated to have a positive effect on community, education, economy, sustainability, and affordable housing, all indicators contributing to quality of life in Florida."* He mentioned a Washington DC article regarding a church located in the heart of town where church officials were faced with all types of practical problems in maintaining the facility which they had not anticipated. The local Historic Preservation Board told them they had to leave the building up, so the matter was brought to court. It was determined to be deprivation of their property to make them sustain it. Regardless of the merits on the case, he was not in favor of saying that historic preservation is sustainable because it may or may not be. It often is and the County should want to encourage it, but historic preservation does not always equal sustainability.

Ms. Sajgo noted there has been a focus on sustainable development with regard to new construction. As staff works on community plans, they are seeing that some of our older buildings and districts have the characteristics that you find in sustainable developments. Staff is trying to say that most of our historic districts have a good many of the characteristics of sustainable development.

Mr. Green mentioned having the pleasure of hearing a presentation by Ms. Sajgo that he recommended be placed on a future LPA agenda. He noted that Ms. Sajgo reviewed preservation projects that have been done, the economic benefits to the community, the grant process, how the County helps, and how people benefit from designating their house as historic.

Mr. Daltry was familiar with the Washington DC article mentioned by Mr. Strelow on the issue of the church building but had a different interpretation of it. He felt the article was along the lines of *"how do you know where you are going unless you know where you have been."* The setting of your community is probably one of the best indicators of how you got here from there. Regarding updating structures to make them energy efficient, the older ones are probably more energy efficient under a distressed resource economy. The older structures are giving us guidance on how functional the community was when you had less to use. However, he was not opposed to changing the language to clarify things better.

Ms. Pierce agreed with comments made by Mr. Strelow. She appreciated staff's intent and noted that older buildings were built in response to the physical environments and climatic conditions and we can draw best practices from those forms and characters and styles of construction. However, she agreed that it is not a fact that historic buildings are inherently more sustainable. She suggested the language be amended to allow differentiation between one that is sustainable and one that is not.

Mr. Inge referred to discussion about sustainability in terms of energy usage and energy efficiency and noted we were missing another major point that historic structures have value because of the connection to the past as it relates to the community, the area, and the country. If we cast it solely in terms of energy efficiency, we are going to lose a large number of our historic structures. He asked that this not be recast to focus solely on that one aspect.

Mr. Strelow clarified that he was not implying that because a historic building may not be energy efficient we should replace it. In most instances, he is in favor of preserving a historic building, although he would do this for reasons other than sustainability. He also noted that not everything has to be sustainable and that sustainability itself includes a lot of balance, economic, cultural, and social considerations. Sometimes this will be very much aligned with historic preservation and other times it will not. He suggested the following alternative language to Objective 1.7 on Page 22:

"Develop a sustainable historic preservation initiative. Preservation of historic structures and facilities often maximizes use of existing materials and infrastructure. Such facilities and structures often were designed with durable features for the climate and site involved. They also often reflect community character. In such instances, historic preservation may warrant support from a sustainability standpoint."

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

Mr. Andress made a motion to recommend transmittal of CPA2011-00009 with the recommended changes by Mr. Strelow, seconded by Mr. Green.

Mr. Daltry made a motion that we accept the report to be transmitted after we do a final review of this and all other elements.

The amendment failed for lack of a second.

The original motion was called and passed 5-1. Mr. Daltry was opposed.

Ms. Ebaugh clarified that staff would finish the individual review of all the individual elements. Once that is done, staff will bring all the elements back to the LPA as a completed package. These elements will be presented to the Sustainability Advisory Committee as well before it goes to the Board of County Commissioners. The final document will include all comments received from the LPA, Sustainability Committee, public, etc. The LPA will see this final document. She also noted this information is maintained on our website and includes staff reports, minutes, and comments from the Sustainability Committee.

This item is reopened later in the minutes and Mr. Daltry's vote is changed.

A. CPA2011-00001 – Capital Improvements

Ms. Ebaugh gave a brief overview of the staff report and recommendations.

Mr. Inge opened this item for public comment.

Ms. Darla Letourneau from BikewalkLee reviewed a letter she distributed to the LPA (attached).

Lengthy discussion and comments took place on this item. However, Mr. Inge summarized the issues below:

- Page 5 of 25 (Current Plan): Mr. Daltry had concerns that sub items 4 and 5 at the bottom of the page concerning the LPA's responsibilities had been deleted from the current draft. Mr. Daltry felt the verbiage should be added back in.

Ms. Ebaugh suggested adding this into the administrative section so that we do not just refer to it in the CIP but the entire document.

- Policy 1.1.1 on Page 1 of 8: There was a suggestion to use language proposed by Ms. Darla Letourneau to add "*and similar mechanisms*" into the language.
- Item 5 on Page 3: Staff will clean up the language as it does not direct you to where it intends.
- Item 6 on Page 3: It was suggested to replace the word "*towards*" with "*to meet*."
- Policy 1.2.1 on Page 4: There was discussion to switch the priorities of 1 and 2.

Mr. O'Connor suggested combining the two into one priority. He suggested some type of revision such as "*Projects that remove a direct and immediate threat to the public health and safety are directed by a court order or otherwise by law.*"

- Priority 6 under Policy 1.2.1 on Page 5: There were comments on whether it should be a priority at all or should it be in the policy language. Staff feels it has more emphasis if it is stated separately. There were concerns by the LPA that this priority does not fit in with the other priorities on the list.

After further discussion with staff, the LPA was content to leave priority 6 as is.

- Mr. Daltry recommended the Office of Management and Budget consider implementing some mechanism or tool either on the CIP document itself or some other means to identify the planning community in which the projects are slated to take place or break them out by planning community.
- There was a concern expressed over having the reference to Map 3A deleted. Staff pointed out that Map 3A (Transportation financially feasible map) still exists and will be updated as appropriate, but there is no reference to it here because it is referenced in the Transportation Element. There was concern that if we do not reference it here, we are lessening the importance of it.

After further discussion, it was determined that Mr. Daltry was suggesting a new policy be created for this under Objective 1.2. Although, Mr. Daltry could not outline the language for the suggested policy at this time, he agreed to draft something to submit later. After additional discussion, it was stated that the LPA is suggesting that staff look into how the various infrastructure maps, using Map 3A as an example, would be incorporated by reference in the CIP.

- Policy 1.2.2 on Page 5: Delete the words “*issues related to*” and add the word “*policies*” on the end of the sentence. The sentence should read, “*Establish a capital improvement budgeting process that incorporates ~~issues related to~~ sustainability and complete streets policies.*”

Mr. Andress made a motion to recommend transmittal of CPA2011-00001 Capital Improvement with all the changes as delineated by Mr. Inge, seconded by Mr. Strelow. The motion was called and passed 6-0.

Mr. Daltry stated that since staff earlier explained the definition of “transmit” and noted they would be bringing back all elements in one package with all comments incorporated before presenting it to the Board of County Commissioners, he wanted to reopen CPA2011-00009 and change his “nay” vote.

Ms. Collins noted it would require a motion to reopen the item.

Mr. Andress made a motion to reopen CPA2011-00009 Historic Preservation, seconded by Mr. Strelow.

Mr. Daltry made a motion to transmit CPA2011-00009 as it was defined, seconded by Mr. Andress. The motion was called and passed 6-0.

Agenda Item 8 - Other Business

Historic Preservation Presentation

Ms. Pierce referred to earlier comments made by Mr. Green to have Ms. Sajgo give a presentation to the LPA on Historic Preservation.

Mr. Green reiterated what Ms. Sajgo’s presentation included.

Due to the volume of agenda items scheduled for the next two to three LPA meetings, it was recommended that staff schedule it for whenever they feel it can be fit in.

TDR Program

Mr. Address asked for the status of a TDR policy that was supposed to be adopted by the end of 2012. He asked if staff had looked at Collier County and Sarasota's TDR plan.

Mr. Noble stated there were policies put in place with the DRGR amendment. Although some revisions may be needed on the framework in Chapter 32, he was comfortable that enough regulations are in place for a future applicant that may come in.

Mr. Address expressed concern that there was no adequate provision in the plan for a land owner to get adequate compensation for their land to want to participate in the program.

Mr. Noble agreed that this was an issue that would need to be reviewed over the next year or two.

Mr. Green did not feel there was a TDR program in effect in DRGR. He gave an example of how a project "Corkscrew Woods" was in effect given density because there was no program in effect. Their density was changed from 250 to 800 units with formulas made up that were not justified to give them that density.

Ms. Pierce stated that in reviewing TDR programs around the country part of their strength comes from the absence of other opportunities to gain density and that is what supports the market value. Although the County cannot control the value, as it is a market mechanism, they can control how many other methods can be used to get to that density that would be competing for the price. For all the TDR programs in the country, only a small amount are robust programs and they are almost all market based, but with very tight controls about what can impede upon that market.

Mr. Strelow referred to comments by staff that there is a policy in place. Although we have a policy in place, it is not a viable program. There is a distinction between a policy and a working program. The Estero group hopes that some of the money that comes in from payments might be used to develop a program. It is not something staff can do in terms of their own expertise or time. There are experts that could be contracted.

Ms. Pierce was in agreement with that and stated it was nothing against staff but these are extremely sophisticated and fraught issues that inevitably bring litigation. She also noted there must be an intense political will to see it through to the end.

Agenda Item 9 – Adjournment – Next Meeting Date: Monday, July 23, 2012

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

The next Local Planning Agency meeting will be held on Monday, July 23, 2012, at 8:30 a.m. in the Board Chambers, Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL 33901.

Relevant Policies for CIP Review, Alico Expansion East of Ben Hill Griffin:

Role of the LPA

"4. The proposed CIP will be reviewed by the Local Planning Agency (LPA), which will consider the consistency of the proposal with the Comprehensive Plan and the effect of the CIP on the growth management objectives of the county.

5. The proposed CIP, along with the report of the Local Planning Agency, will be reviewed by the Board of County Commissioners. The Board of County Commissioners will by resolution adopt a CIP at approximately the same time as the adoption of the annual operating budget. The annual operating budget must be consistent with the first year of the adopted CIP."

From CIP Element

"b. Priorities for the CIP:

Where needs based on current and/or projected deficiencies exceed revenues projected to be available, projects will be included according to certain priorities which are listed below. In addition, these priorities will be considered in reviewing proposals to amend the CIP.

1. Projects that remove a direct and immediate threat to the public health or safety;
2. Projects that are directed by a court order or otherwise by law;
3. Projects that are essential for the maintenance of the county's investment in existing infrastructure;
4. Projects that remove a service level deficiency that affects developed areas; and
5. Projects that provide new or additional facility capacity for undeveloped Future Urban areas."

Roadway LOS (Extracted From Table)

| | |
|--|---|
| State & County-Maintained Roads (Excluding FIHS, SIS and TRIP Roads) | |
| Expressways (Limited Access Facilities) | D |
| Controlled Access Arterials | E |
| Arterials | E |
| Major Collectors | E |
| Minor Collectors | E |

Regarding Use of Gas Tax to widen Road for New Development, Relevant Policy

OBJECTIVE 95.3: OTHER FINANCING POLICIES. Establish a broad-based system of revenue regulations that ensure that new development pays at least 90% of the capital costs of the public infrastructure directly attributable to that new development. (Amended by Ordinance No. 94-30)

POLICY 95.3.1: Impact fees for and/or fees-in-lieu of private provision of designated public facilities will be set to capture a substantial proportion of the full and real cost of the designated facility, and will be reviewed and updated regularly. (Amended by Ordinance No. 00-22)

....

Priorities found elsewhere in this plan, including, but not limited to, Objective 2.3 and Policies 36.1.5, 37.3.3, 38.1.7, 38.2.1, 38.2.4,

POLICY 36.1.5: Construction of new roads and widening of major road segments by the county

will be based on a prioritized list of the improvements needed to create the network depicted on Transportation Map 3A. This list will be updated annually through the county's capital improvements program.

Voluntary dedication of rights-of-way necessary for improvements shown on Transportation Map 3A will be encouraged at the time local development orders are granted.

POLICY 38.1.1: The county will maintain an effective and fair system of impact fees to insure that development creating additional impacts on arterial and collector roads pays an appropriate fair share of the costs to mitigate its (off-site) impacts. (Amended by Ordinance No. 99-15)

POLICY 38.1.3: Roads impact fees will be reviewed regularly and updated when necessary to reflect travel characteristics and construction and right-of-way costs and to determine if the capital impacts of new growth are met by the fees. (Amended by Ordinance No. 99-15)

POLICY 38.1.4: The county will encourage private funding or contributions of road construction or right-of-way acquisition through innovative means including, but not limited to, voluntary MSTUs and MSBUs. The county may establish involuntary MSTUs or MSBUs to correct deficiencies in specific areas or neighborhoods. MSTUs/MSBUs will be reviewed regularly to determine whether existing units can be eliminated or new units should be created. (Amended by Ordinance No. 99-15)

POLICY 38.1.8: The County may pursue a joint funding mechanism (such as an MSTU/MSBU) to pay for the widening of Alico Road east of Ben Hill Griffin Parkway to encourage economic development in the Alico Road area. Properties that generate traffic on the segment of Alico Road east of Ben Hill Griffin Parkway that have not already fully mitigated traffic impacts will be required to participate in the funding mechanism. Participation will be creditable against future road impact fees or DRI proportionate share obligations consistent with County regulations. Property that was subject to CPA2009-01 will donate 75 feet of right-of-way along the entire frontage of Alico Road. The donation of right-of-way along Alico Road will not be creditable against road impact fees or DRI proportionate share obligations. (Added by Ordinance No. 10-40)

Regarding Map3A

The facility..Alico Widening East of I-75-is not on Map3a, Financially Feasible Network



Darla Letourneau comments on Capital Improvement Element
On behalf of BikeWalkLee
May 31, 2012 LPA meeting

Background

- Speaking on behalf of BikeWalkLee--community coalition working for complete streets in Lee County & balanced multi-modal transportation
- Margaret Banyan and I spoke at your Jan. 23rd meeting with comments on the Transportation White Paper
- At that meeting, we highlighted the three issues that must be addressed if we are to achieve a balanced transportation system that:
 - increases walkability,
 - multi-modal transportation choice, and
 - compact mixed use communities.
- Those issues are:
 - transportation LOS,
 - sustainable performance criteria and measures, and
 - funding.

Transportation Concurrency & LOS:

- The draft Capital Improvement element you have before you today touches on two of those issues--LOS and funding.
- While the bulk of these issues will be addressed in the Transportation Element that will be presented in July, the CI element is a glimpse at what is to come. We are encouraged by what we see.
- First, we are pleased to see the staff recommendation to end concurrency for transportation, schools and parks, as allowed under the 2011 state law changes.
- As we stated in January, it's important that Lee County use this opportunity to take back local control and support our local vision and our community plans.
- However, eliminating transportation concurrency is just a first step in the needed changes to realize the vision in the EAR.
- We're pleased to see proposals dealing with LOS that begin to move us towards the county's goal of a balanced transportation system.
- First, we applaud the statement in Policy 1.1.3: "The LOS for **transportation facilities** will be established through an assessment of **all transportation modes** including roadway, bike, pedestrian, and transit capacity and service volumes consistent with the standards established in the Transportation Element."

- Since the Comp Plan was last amended, the Florida guidelines for determining LOS have been updated. Beginning in 2009, the Florida LOS Quality Handbook provides LOS standards not just for vehicles, but also for transit, pedestrians, and bicycles.
- Using this updated guideline, staff is proposing to establish LOS standards for these other modes and to use them in determining whether a road meets LOS standards for further development to move forward.
- This means that the county can establish the LOS standard for a given road to be a transit standard, a bike/ped standard, or a vehicle standard or some combination of these.
- What this broader approach to LOS says is that the solution to the "problem" can be addressed by enhancing transit services, sidewalks, paths, and bike lanes.
- It could allow for solutions that foster complete streets rather than assuming that any increased traffic requires roads to be widened.
- With a multi-modal LOS approach, the logical next step is a change in the way solutions are financed from the vehicle-only impact fee approach to a multi-modal mobility fee approach.
- This shift to newer alternative funding mechanisms was envisioned in the December 2011 FDOT report on "Proportionate Share" and two Florida counties--Pasco and Alachua--have each modernized their funding mechanisms to reflect the transportation demand changes.
- We look forward to reviewing the Transportation element to see how the county plans to define and apply this new LOS approach in supporting a balanced multi-modal transportation system.
- While this new LOS approach is a step in the right direction, we encourage staff to go further.
- In addition to changes in the LOS, we would like to see the staff and the various committees take a step back and look at the intersection of transportation and land use and ask the big picture vision questions--where in the county do we want to invest in transportation infrastructure and where do we not want to invest? Then let's make sure that our LOS standards assist us in realizing this vision.

Other Provisions:

- We are also pleased to see that the county's revised planning and budgeting process is incorporated in Objective 1.2, Policy 1.2.2 and Policy 1.2.3. These policies are consistent with the Complete Streets Implementation Plan and emphasize coordination & collaborative.
- Further, we are pleased to see the inclusion of language in both Policy 1.2.3. and Policy 1.2.4 addressing "service expansion needs in urban communities and mixed-used areas," and factors to be used in evaluating mixed use, urban or otherwise developed areas. Both of these provisions reflect the EAR focus.

Recommended language changes in draft CI Element:

Finally, we suggest that some wording be amended as follows:

- Policy 1.1.1: While this section applies to all capital improvements, the term "impact fees" needs to be modified to be more inclusive: "impact fees and similar mechanisms".
- - This is the phrase used in Policy 1.4.4. and the same word construction should be used here to be consistent throughout. We are explicitly interested in ensuring that the

Comprehensive Plan allows for new funding mechanisms, such as the use of a future mobility fee.

- Policy 1.2.1. Policy 1.2.1 provides a list of criteria to be used to prioritize all capital improvement projects.
 - It is important that this prioritization scheme provide a framework that will allow transportation projects to be prioritized consistent with complete streets and sustainability goals.
 - Priority 6 has been added which states, "Consistency with county planning and development priorities regarding sustainability, economic development, livability, strong connections, and community character."
 - Rather than a separate priority category at the end, it should be the guiding principle for project prioritization overall.
 - We recommend that this sentence (#6) be at the beginning of the paragraph as an overarching standard within which each of the priority categories is assessed.