

**MINUTES REPORT
LOCAL PLANNING AGENCY
June 28, 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
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 – May 31, 2012

Mr. Green referred to the seventh paragraph on Page 4 of 11 where he mentioned Broadlands. He changed the last sentence to read, *“In the instance of Broadlands, a development order containing 250 home sites was approved in Alva with no review by the community.”*

Mr. Strelow referred to the last paragraph on Page 4 of 11 and requested the second sentence be deleted as he felt it was an inaccurate representation of what was said.

Ms. Pierce referred to the eighth paragraph on Page 4 of 11 where it mentions stop signs in three locations within that paragraph. She stated the word “signs” should be replaced with “bars,” in all three places within this paragraph.

Mr. Strelow referred to the fifth paragraph on Page 11 of 11 and stated the word “Caloosa” should be replaced with “Corkscrew” so that it reads, “Corkscrew Woods.”

Mr. Andress made a motion to approve the May 31, 2012 meeting minutes with the above corrections, seconded by Mr. Daltry. The motion was called and passed 7-0.

Agenda Item 5 – CPA2011-00004 Conservation and Coastal Management

Mr. Brandon Dunn reviewed the staff report and recommendations.

General questions and answers ensued.

Mr. Hutchcraft noted there were several places within this element where general phrases such as “*update this database,*” “*monitor this program,*” and “*determine whether this is cost feasible*” are used. There is no indicator on whether or not these functions have been done. If these functions are being done, there should be data and analysis upon which to justify some changes being proposed. He noted there were a couple of significant policy shifts being proposed and he wanted to understand the reason behind it. In addition, there should be data comparing what is not being done now compared to the new proposal and how it will result in a better outcome. He asked Natural Resources staff to take another look at the element from that viewpoint.

Mr. Daltry noted that in the past Lee County had heavily invested, through different departments and various programs, to improve the impact of Everglades Restoration on Lee County yet he did not feel this was reflected throughout this element. The county has: 1) allocated three million dollars towards the Boma property in Glades County for water quality; 2) sought to have such investments be recognized as core level of service; and, 3) smalltooth sawfish is one of the indicator species the County is prepared to defend in water supply and water quality measures coming out of Lake Okeechobee since it is an endangered species on the list of species that we are paying attention to. He noted that with regards to water quality, there were five activities the County was committed to do to improve water quality: 1) fertilizer ordinance; 2) septic tanks; 3) waste water treatment plants; 4) package plants; and 5) stormwater management program. Mr. Daltry stated he did not see this type of theme in the document and felt it needed to be reintegrated into it or clarified. Regarding reservations of water, in 2002 the Commissioners started taking a position on wanting water reservations of streamflows that had not been 100% committed already so that the environment could be considered a user and those reservations of water flow would not be turned over to the next person requesting a permit. He asked that Natural Resources and County Attorney staff take another look at this from that viewpoint to make sure we are anchored in our core level of service findings and do not get challenged because our policies do not support the very things the County claims they want to support.

Mr. Address referred to Objective 3.1 on Page 26 of 46 and noted there were some areas that were specifically identified for critical surface water management. However, he felt two areas were left off the list and should be added. The two areas are: 1) The area north of the Caloosahatchee River all the way up to the Charlotte County line, which is the Charlotte Harbor Flatwoods; and, 2) Little Pine Island. He further stated that both areas were land specifically acquired for surface water management yet they are not included on the list.

Ms. Collins stated that in reviewing this document she thought it would be best not to name any specific areas, but rather say “*that we are going to maintain regulations to protect unique environmental and water resources that are critical to surface water management.*” She asked that Planning staff to consider this recommendation.

Mr. Address was in agreement with either mentioning the ones that are critical if we have some specific reasons for targeting them or just have a broad category to avoid leaving out critical areas.

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

Mr. Inge referred to the third sentence in the new paragraph proposed on Page 5 that reads, “*Environmental and coastal features also contribute to the county’s recreation, education, cultural and economic opportunities as a result of its appeal for tourism as a second home destination.*” He requested we add “*in addition to favorable business locations*” to support the economic element since we are trying to encourage businesses to move here. He noted we are more than just “*tourism*” and a “*second home destination.*”

Mr. Hutchcraft noted that in this same paragraph it mentions “*contributing to the sustainability of Lee County.*” However, sustainability is a balance between environmental, social, and economic development. He felt that some of the provisions/recommendations in this element were not taken into context of how they balance with a true broad perspective of sustainability. It needs to be a comprehensive vision that includes an economic component.

Discussion took place regarding the importance of protecting our environmental resources. Ms. Pierce stated the County could make a prioritization. If our money comes from selling our environment, then it is a priority that could be put in some type of ranking order. She noted it should not be ranked low.

Mr. Daltry noted Lee County was the top third in the nation in food production and the top 10% of the nation in fishing.

Mr. Hutchcraft referred to Policy 1.2.1, subparagraph d.1. which says, “*A comprehensive inventory of environmentally sensitive lands will be maintained and expanded as new data becomes available.*” He asked if we are actually updating it.

Mr. Daltry referred to the Everglades Restoration for the lower west coast and noted they had environmental studies which comprehensively inventoried the natural resources. The participation was through the Division of Natural Resources. The inventory, besides their office, is at the Regional Planning Council/NEP offices. This effort is traveling slowly at the federal level as one of the supplements to the Everglades Restoration. He believed it was finished in 2008. This inventory also prioritized lands for restoration/acquisition. If there is a specific name to the inventory, he recommended adding it to Policy 1.2.1, subparagraph d.1.

Mr. Hutchcraft referred to paragraph 2 at the top of Page 8 and asked for a better definition for “*critical habitat.*”

Ms. Sweigert stated staff would look into this. It would be presented to the LPA as part of the definitions in the Glossary.

Mr. Strelow referred to Policy 1.2.2 on Page 9 and requested the word “*coordination*” be replaced with “*coordinate*” and to delete the word “*promote.*”

After staff’s explanation for the current language, Mr. Green stated he was in favor of leaving the language as is. It was agreed to by Mr. Strelow and the rest of the LPA members.

Mr. Hutchcraft referred to Policy 1.4.1 on Page 11 and stated this policy used to relate to upland buffers around preserved wetlands. He stated the proposed changes significantly broaden the application of this policy. It is now a blanket statement about preserving habitat. His concern was that it could be broadly applied without a lot of standard and it is a significant shift in what was originally intended by the policy.

He asked about the data and analysis used to demonstrate that what we are currently doing is not adequate.

Ms. Sweigert stated she did not see this as a big shift in change in what the County is currently doing and how they review projects. She explained the rationale for the policy being written as is.

There was a lot of debate on this issue by other members and the LPA did not reach a consensus to change this policy.

Mr. Daltry referred to Policy 1.4.3 on Page 11. To understand how this fits with the concept of Suburban, he asked to see the Future Land Use Map to identify where the new developments are in order to determine whether this is an intrusive requirement or not.

Mr. Hutchcraft asked for legal clarification that agricultural uses are not included under the definition of “*development*” in Policy 1.4.3. He felt agriculture should be excluded from this requirement as it would be a burdensome requirement.

Mr. Inge requested that staff flag this policy and ensure they bring it back to the LPA for further review.

Mr. Hutchcraft referred to the top of Page 16 in subparagraph c. and asked if the verbiage that says “*work with landowners*” means it would be incentive based or voluntary rather than a regulatory mechanism.

Ms. Collins recommended the language say “*Promote connectivity of preserves to ensure safe passage of panthers through creative site design.*” After further discussion, the LPA wanted to add “*and land management*” at the end.

Mr. Hutchcraft referred to Page 16 subparagraph e. where there is mention of “*least-cost pathways.*” He noted those are not a specifically defined corridor, but instead it is a generalized corridor. He noted you could have another corridor that has the same function, but does not track that least-cost pathways corridor. He suggested the language be changed to say, “*Encourage state land acquisition programs to include and restore known pathway corridors generally identified by least-cost pathways analysis.*”

Ms. Pierce referred to Policy 2.1.2 on Page 17 and asked to add “*Low Impact Development (LID)*” to the list of practices since it is in the Evaluation and Appraisal Report, Natural Resources staff is moving towards it, and the Water Management District is fine with it because they are relying on performance standards. She also referred to the last line that says “*conserving vegetation.*” Since “*vegetation*” can mean several things, she wanted to make sure that “*forest canopy*” is included.

The LPA took a recess at 10:47 a.m. and reconvened at 10:55 a.m.

Discussion took place on Objective 3.2 on Page 26. It was suggested that “*Limit Development*” be deleted and replaced with “*Through creative site design, Rare and Unique upland habitats...*” Staff agreed to fix this.

Mr. Hutchcraft asked for clarification on Policy 3.3.1 on Page 27. After further discussion, Mr. Hutchcraft recommended the language read, “*When wetlands are preserved in accordance with Table 1(a), the density from the wetlands can be transferred.*” Staff agreed to make that change.

Mr. Hutchcraft referred to Policy 3.3.4 on Page 28 and expressed concern with the way it is written. He was fine with this language if it refers to wetlands that are already on the Future Land Use Map.

However, he had concerns if it meant going back and adding additional wetlands based on new information. Staff clarified the policy and no changes were proposed.

Mr. Hutchcraft referred to Policy 4.1.5 on Page 30 where it mentions “*critical wildlife habitats*” and made the same comment as was said for Page 8 that staff needs to better clarify that term. Staff agreed they would work on this.

Mr. Daltry referred to Objective 5.3 on Page 34 and asked that “*sustainability*” be replaced with “*support policies for renewal yields*” so that the sentence reads, “*Support policies for the achievement of renewal yields of recreationally and commercially important fish and shellfish that depend on the estuaries.*”

Mr. Daltry referred to Objective 5.4 on Page 34 and asked that we get some facts from the marine extension agent on what is taking place with the economic base studies. Once this information is received, it might be necessary to adjust the policy to be more pointed to promoting that program. Staff agreed to look into this and bring it back at a later date.

Mr. Hutchcraft referred to Objective 6.5 on Page 38 and asked whether this would be implemented on public or private property. If it is implemented on private property, there needs to be a nexus or reasonable compensation. Would this be an incentive/compensation type program?

Mr. Hutchcraft referred to Policy 6.6.1 on Page 38 and felt there was a liability involved if people are asked to allow the public to have access onto their property. Although the County has sovereign immunity if someone gets hurt, this would not be the case for a landowner.

Mr. Daltry recommended that Objective 6.5 be a policy instead of an objective because of the way it is written. It is too detailed for an Objective. The objective should be the outcome and your policy should be the tool. The objective should be “*Enhance access to Lee County’s waterways and scenic views on or along Lee County Waterways and Beaches.*” A policy could be added underneath it that addresses “*maintenance and implementation programs of beach and water accesses and the Great Calusa Blueway Paddling Trail system....*”

Mr. Hutchcraft referred to the new policy proposed by Mr. Daltry and asked for similar language as mentioned by Ms. Collins earlier. He felt it should be handled through coordination and creative site design so that an applicant’s buffers would get counted as their required open space instead of an applicant having to give all of their open space plus this buffer.

Ms. Pierce suggested using the word “*incentive*” or “*incentivize*.”

Mr. Inge clarified that Objective 6.5 should read, “*Enhance access to Lee County’s Great Calusa Blueway Paddling Trail system to provide for recreational, interpretive, and scenic views on and along Lee County waterways and beaches.*” There should be a separate policy that reads, “*Through the maintenance and implementation of policies to address the beach and water accesses to the Great Calusa Blueway Paddling Trail system establish or adopt incentives through creative site design to obtain cooperation and support by private landowners through the rezoning and development process.*”

Staff agreed to take this general discussion and put it into some type of language.

Mr. Daltry referred to Objective 6.6 on Page 38 and stated that although the term “*encourage*” is used, it is not an outcome. The tool should be incentives and tradeoffs.

Ms. Pierce referred to comments made by Mr. Hutchcraft on Policy 6.6.1 regarding the liability issue and asked for staff to provide clarification on that at a future time.

Mr. Hutchcraft referred to Policy 6.6.1 and felt it should say, “*Design programs that address and encourage access to new water-related developments.*” Staff agreed to make that change.

Motion for CPA2011-04:

Mr. Inge itemized the LPA’s changes below which are included in the motion for this element.

Page 5 (New Proposed Paragraph): Add “*in addition to favorable business locations.*”

Page 7 (Policy 1.2.1): No changes were made to this as staff felt the earlier discussion on it was adequate.

Page 8 (at the top): A better definition is needed for “*critical habitat.*”

Page 10 (Policy 1.3.11): Add a period after “*of these areas.*” Delete the rest of the paragraph.

Page 11 (Policy 1.3.12): Add “*Identify and regularly update the list of prohibited...*” at the very beginning.

Page 11 (Policy 1.4.1): This had several changes proposed by Mr. Hutchcraft. There was debate on it by the LPA.

Mr. Green made a motion to leave Policy 1.4.1 as submitted, seconded by Mr. Daltry. The motion was called and passed 5-2. Mr. Hutchcraft and Mr. Inge were opposed.

Mr. Hutchcraft stated his reason for being in opposition is because this policy is too broad. It needs to be narrowed and qualified. In addition, there is no data and analysis to support it.

Page 17 (Policy 1.4.13): Add a new Policy 1.4.13 for the Small Tooth Sawfish because of its notation as a species of concern to Lee County. **After further discussion, it was decided to ask staff to look into this and determine whether a policy and attendant language should be brought back when this element is considered for final adoption.**

Page 16 subparagraph c (top of page): Change the verbiage to read, “*Promote connectivity of preserves to ensure safe passage of panthers through creative site design and land management.*”

Mr. O’Connor stated staff would extend the language to allow programs such as a Transfer of Development Right program that could possibly achieve this goal or some other program like that where we could promote connectivity of preserve areas without fee simple purchase.

In light of Mr. O’Connor’s comment, Ms. Collins suggested the verbiage read, “*Promote connectivity of preserves to ensure safe passage of panthers through: 1) creative site design; 2) land management; and, 3) other incentives.*”

Page 16 subparagraph e: Change the verbiage to read, to: “*Encourage state land acquisition programs to include and restore known pathway corridors generally identified by least-cost pathways analysis.*”

Page 17 (Policy 2.1.2): Add “*Low Impact Development (LID)*” to the list of practices. Also, make sure that “*conserving vegetation*” includes “*forest canopy*”.

Page 17 (Goal 2): Replace the term “*maximize*” with “*promotes*.”

Page 18 (Policy 2.1.5): Add “*agriculture*” after “*environment*,” so that it reads, “...*needs of the existing and potential built environment, agriculture, natural hydrologic system requirements, and freshwater flow impacts on estuarine systems.*”

Page 18 (Policy 2.1.10): Replace the word “*Educate*” with “*Achieve*,” so that it reads, “*Achieve water conservation through creative landscaping...*”

Page 19 (Policy 2.1.12): Add a new proposed policy 2.1.12 to recognize “*forest*” and “*forest canopies*.” The policy should read, “*Recognize the value of forest and forest canopies including urban forests in capturing, slowing, retaining and augmenting stormwater infiltration and groundwater recharge and purification.*”

Page 19 (Policy 2.2.3): The verbiage will be changed to read, “*The design, construction, and maintenance of artificial drainage systems must provide best management practices that minimize nutrient loading and pollution of freshwater and estuarine systems.*”

Page 21 (Policy 2.3.4) Item 1: Change the verbiage to read, “*Runoff must be addressed through best management practices in order to reduce flow velocity...*”

Mr. Strelow left the meeting at this point. Mr. Address left shortly after.

Page 23 (Policy 2.3.6) subparagraph c: Add “*for non agricultural uses*” at the end of the sentence.

Page 25 (Policy 2.4.2): Replace “*maximize*” with “*promotes*” on the last written line.

Page 26 (Objective 3.1): Delete specific names and make this more generic by saying, “*Establish and maintain regulations to protect unique environmental and water resources that are critical to surface water management.*”

Mr. Green made a motion to find CPA2011-00004 as amended by the above comments consistent with the Lee Plan, seconded by Mr. Hutchcraft. The motion was called and passed 5-0. Mr. Strelow and Mr. Address were absent for this vote.

Agenda Item 6 – CPA2011-00010 Housing

Mr. Green made a motion to continue CPA2011-00010 Housing Element to the July meeting, seconded by Ms. Pierce. The motion was called and passed 5-0.

Mr. Daltry referred everyone to the two documents attached to the staff report. Since this item is being continued, he asked if there would be a possibility to find a few more facts such as: 1) the role of the retiree in our housing effort; 2) the forecast of that particular age group and the components of the personal income usually considered tied to the retiree population which is property income and transfer payments; and, 3) foreclosure information since that is now available. He felt this information would help guide the housing discussion.

Ms. Pierce referred to the definition of “*Affordable Housing*” on the first page and asked that it be expanded when addressed again to include the cost of transportation that is associated with the location of said housing. She stated it would give a more realistic picture of the actual cost of living and working somewhere.

Agenda Item 8 - Other Business

Mr. Green left the meeting during this portion.

Ms. Ebaugh gave an update on the schedule for the elements. She reviewed the public input process which will be handled both with workshops as well as on-line with a new program called “Mind Mixer.” She also reviewed the process that will take place to work with each of the community groups/panels.

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

The meeting adjourned at 12:30 p.m.

Staff explained they would need two all-day workshops with the Local Planning Agency for both their July and August meetings.

It was agreed that staff would poll the LPA for the July and August meetings to see if everyone can reserve the day for these meetings.