

**MINUTES REPORT
LOCAL PLANNING AGENCY
December 4, 2013**

MEMBERS PRESENT:

Noel Andress
Steve Brodtkin
Wayne Daltry
Jim Green (Chair)

Mitch Hutchcraft
Ann Pierce (Vice Chair)
Roger Strelow

STAFF PRESENT:

Brandon Dunn, Planning
Kathie Ebaugh, Planning
Andy Getch, DOT
Michael Jacob, Managing Asst. Cty. Atty.

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

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

Mr. Green, Chair, 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 33901.

Mr. Michael Jacob, 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 – New Horizon 2035: Plan Amendments

A. CPA2011-00001 – Capital Improvement Element

Ms. Ebaugh reviewed this item with the LPA and noted it was the second review by the LPA. She reviewed all the changes made to this amendment since the last time it was reviewed by the LPA. Mr. Noble distributed an Errata sheet. Ms. Ebaugh noted staff included all comments made by the Community Sustainability Advisory Committee (CSAC) except for two that are highlighted in red. The first change in question is to Policy 1.1.1. CSAC requested the word “*Neighborhood*” be added to the parks area. Staff is not recommending this because the County does not maintain a standard for neighborhood parks at a county level. The second change in question is to Policy 1.2.7 where CSAC recommended the language read “*conduct new procedures.*” She explained it is not that staff disagreed with it, but they felt it would be better stated if we identified it as “*appropriate opportunities*” because it could be procedures, items, or other practices. Therefore, staff wanted to keep the language more generic, but thought the overall concept of the policy was a good idea from CSAC. Staff reviewed the Errata Sheet with the LPA (attached).

Due to a question by Mr. Green regarding a comment staff made on neighborhood parks, Ms. Ebaugh clarified that the Parks Department does not maintain a level of service standard for neighborhood parks as they do for regional and community parks.

Mr. O'Connor stated the County does not look for new neighborhood parks at this time. There are several older ones that are the responsibility of Parks and Recreation. The small neighborhood parks have turned out to be too much of a maintenance and staffing issue so the County has concentrated on community and regional parks.

Ms. Pierce asked if the neighborhood parks would come under the purview of the independent property owner at the time of development.

Ms. Ebaugh stated that when the County does the master planning for these mixed use areas, staff will identify civic areas and neighborhood park areas. How that ownership happens is not something staff is defining at this time. It will be something that will be determined at the time of development.

Mr. Andress referred to Policy 1.1.3 c.3 on Page 4 of 9 and stated it did not seem logical for this to be based on boat trailers for every 12,500 of total county population. He felt it should be based on number of boat registrations in the County because most likely about two thirds of the people in Lee County do not own a boat. Therefore, to base it on population is using a number that is not valid towards achieving the goal you want to achieve which is having adequate space so people can put their boat in the water.

Ms. Ebaugh noted that staff was removing that section from this element as it belongs in the Parks and Recreation element instead. Staff stated they would forward this comment to the Parks and Recreation staff.

Ms. Ebaugh referred to the Errata Sheet and noted that when the draft for this element was first revised, staff went by state regulatory recommendations to move the schools into a "*non-regulatory*" condition. However, the Interlocal Agreement with the schools requires that it be "*regulatory*." The Errata Sheet will fix that and move it back to a "*regulatory*" standard.

Mr. Daltry referred to the existing language in Objective 95.3 of the Comprehensive Plan which basically contains the policies for having an impact fee. However, he did not see impact fees seriously considered in the proposed element.

Ms. Ebaugh referred the LPA to Objective 1.5 Fiscal Management which outlines specific funding sources. Impact fees are mentioned in Policy 1.5.4.

Due to a question by Mr. Daltry, Mr. Getch clarified that transportation impact fees are still one of the funding alternatives in the draft Transportation Element, which the LPA will review a second time in a few months. In an attempt to remove redundancies, the entire level of service specific references for transportation were removed from this element as well as some other references.

Mr. Getch explained the difference between "*regulatory*" and "*non-regulatory*." It means whether we can deny a development permit, but it does not affect the site related improvements a development has to make and it does not affect any fees the development has to pay. The state law for road impact fees is still intact today with the rational nexus test. It will be considered as a valid funding option for the county to pursue along with mobility fees, gas taxes, and ad valorem. Staff lists all those items in the funding section of the Transportation element. He reviewed some changes in state law and how this affects the definition of fair share for a development and how the fair share will be calculated and handled for future development.

Mr. Address noted that when the Commissioners reduced the impact fees, staff was supposed to be working on an alternative proposal to bring back to the BOCC in March. If we are going to replace the old impact fee structure, he asked why there was no mention of mobility fees or another type of funding mechanism.

Mr. Getch stated this would be in the Transportation element which the LPA will review in February. Mobility fees will be one option, but others will be included in the element as well.

Mr. Green stated impact fees apply to more than just transportation so it did not seem appropriate for it to only be part of the Transportation Element.

Mr. O'Connor stated impact fees were also in the Communities Facilities element.

Mr. Brodtkin referred to language in the Lee Plan that states new development is to pay 90% of the capital costs of public infrastructure directly attributable to that new development. He asked if that language would be eliminated.

Mr. O'Connor believed that language was proposed to be removed. The new language gives staff more options rather than picking a number like 90%. It will give policy makers more options and not hold them to a specific standard on one specific thing.

Mr. Green opened this item for public comment.

Ms. Hagen from CSAC reviewed their comments with the LPA on this item, which were included in the Board's meeting packet.

Ms. Pierce referred to the suggestion made by CSAC to Policy 1.2.7 on Page 6 of 9. Staff is proposing to change "*Conduct new procedures for community involvement in the budget process*" to "*Identify appropriate opportunities for community involvement in the budget process.*" She felt the new language was too passive and she asked if CSAC would be comfortable with staff's proposed language.

Ms. Hagen believed staff's intent for this language was to keep it very broad so that it could be specified at a later time in the Land Development Code.

Ms. Ebaugh stated staff wanted to keep the language broader to allow for the Land Development Code to further define exactly how we would accomplish this policy rather than say "*conduct new procedures.*" Staff has not identified what those procedures are and believe the current language does not give enough direction as to how to implement this.

Mr. Hutchcraft referred to Policy 1.1.1 on Page 1 of 9 where it refers to the operation of a Concurrency Management System. He noted not all of the other items mentioned are concurrency items so it is not appropriate to label the entire system as a "*Concurrency Management System.*" State law has changed and concurrency is not required for a number of the other items listed. He suggested staff call it an "*Infrastructure Management System,*" a part of which is concurrency.

Mr. O'Connor stated staff concurred with that. When the new draft for the Concurrency element comes forward, this suggestion will be reflected in it.

Mr. Hutchcraft referred to the same Policy 1.1.1 on Page 1 of 9 that mentions implementing “regulatory” and “non-regulatory” levels of service. He did not see how the county would be able to implement a “non-regulatory” standard. In reviewing the older version, he felt the language was clearer. He referred to the section dealing with Level of Service Standards in Policy 1.1.2 on Pages 2 and 3. Although he understood why staff was deleting these sections as they are included in other elements, he felt there should be some type of list of all the level of service standards so that the public would not have to search through multiple elements for the information.

Mr. O’Connor felt that in order to be user friendly staff would compile some type of list as they continue through this process.

It was suggested there be some type of handout or an appendix to the element.

Mr. Hutchcraft referred to Policy 1.2.2 on Page 5 of 9 where it says, “*This process will be coordinated with interdepartmental project teams, appropriate advisory panels, and educated stakeholder input.*” He did not agree with the input being received from only “educated” stakeholders. He recommended it read as follows: “*This process will be coordinated with interdepartmental project teams, appropriate advisory panels, and a ~~educated~~ stakeholder ~~input~~ education process.*”

Mr. Hutchcraft referred to Policy 1.2.7 on Page 6 of 9. To make it a more active term, he recommended changing the language to: “*Facilitate ~~Identify~~ appropriate opportunities...*” Mr. Hutchcraft stated the County’s role is to create those opportunities, but it is up to the public on whether or not they choose to participate.

Mr. Brodtkin noted that in the current Comprehensive Plan, Number 4 under Policy 95.1.1 states that the CIP will be reviewed by the Local Planning Agency. He did not see it indicated as part of this element.

Mr. Daltry stated it was the Board of County Commissioner’s process for the Local Planning Agency to review the CIP, but it is not a state requirement. He was concerned if the verbiage to that affect was being removed from the Comprehensive Plan and not indicated elsewhere.

Ms. Ebaugh stated it could be added to Policy 1.2.4 on Page 6 of 9.

Mr. Daltry stated he wanted to make a change to Policy 1.1.1 regarding impact fees because impact fees are supposed to be anchored to some things and one of them is achieving your level of service. Impact fees make up the difference between our current revenue stream and what we said we need. By using the level of service, we are helping set what the impact fee level is for each particular facility. **Therefore, he made a motion to remove the strikethrough of the words “impact fees,” seconded by Mr. Brodtkin.**

Mr. Strelow was in favor of leaving the language as staff has suggested given current policy options that are being considered and will be considered for some time.

Mr. Hutchcraft felt it was important to read the element in its totality. In various policies in the element (i.e. policies 1.2.4, 1.2.5, and 1.5.4) it clearly indicates that the County is tasked with identifying what needs to be done, making sure it gets done, evaluating the potential funding sources, and establishing those funding sources. It does not preclude impact fees.

Mr. Brodtkin stated that leaving that phrase in seems appropriate because it does not say what the impact fees will be or that they have to pay for all or any part of it. It only says that the level of service will be a basis for deciding what they will be.

The motion was called and failed 3-4. Mr. Daltry, Mr. Brodtkin, and Mr. Green were in favor. Mr. Hutchcraft, Mr. Strelow, Ms. Pierce, and Mr. Address were opposed.

Mr. Daltry made a motion to add “road facilities” as a regulatory level of service, seconded by Mr. Brodtkin.

Ms. Ebaugh clarified that the proposed change by Mr. Daltry would be added to policies 1.1.1, 1.1.2, and 1.1.3.

Due to a question by Mr. Address, Mr. Getch outlined how this change would impact this document if it is regulatory instead of non-regulatory as currently written.

Mr. Hutchcraft stated projects should pay towards improving the impacts they generate on transportation whether it is impact fees, mobility fees, or some other source. Is our goal to deny projects or to generate revenue to invest in a mobility system? The old system used to prioritize investment in roads only. For over a year, discussions have taken place about multi-modal, pedestrian, and creating a new system. He noted that nothing proposed says the County is getting away from impact fees or that they are avoiding requiring developers to pay for their impacts. It merely recognizes that we are creating a new system that puts value on other things other than solely roads. He felt this should be considered before we go back to a system that has not been working.

Ms. Pierce agreed with Mr. Hutchcraft and noted that about 90% of our roads in compliance with level of service standards have been overbuilt. That is a lot of money that, in the future, could be redirected to multimodal facilities.

Mr. Getch stated the 2013 Concurrency Report shows that 90% of the road segments meet the level of service standard and have available capacity. One important distinction is that if the County continues with transportation concurrency they are responsible for state roads. Most of the deficient road segments are on the state highway system, which is the reason for staff’s recommendation to make it non-regulatory.

Mr. Daltry stated he was supportive of going to a new system, but was concerned with the paying part of it without having another system in place yet. There is a modification of this plan when it has not gone through public hearings, workshops, and public debate. He was not eager to let go of the old system when it is still legal and implementable.

Mr. Brodtkin agreed that he was in favor with replacing what we have with a better system, but not until we have the new proposals for the funding. He felt it was premature to get rid of the existing policy without the new proposals.

Mr. Strelow felt it was very difficult to fully address this issue until the LPA sees the Transportation Element. He would not be able to support the pending motion at this time. He stated that once the LPA reviews the Transportation Element, they can always request to see the Capital Improvement Element again.

Mr. Daltry stated he would vote in favor of this amendment if the LPA can revisit this element should they wish to once they review the Transportation Element.

Mr. Daltry made a motion to move transportation with the understanding it is specifically roads because that is the level of service we have, but all our discussion elsewhere has been other modes from 1.1.1.b. to 1.1.1a. and policies 1.1.2 and 1.1.3 and elsewhere as appropriate, seconded by Mr. Brodtkin. The motion was called and failed 5-2. Mr. Daltry and Mr. Brodtkin were in favor. Mr. Hutchcraft, Mr. Strelow, Mr. Green, Ms. Pierce, and Mr. Address were opposed.

Mr. Daltry made a motion to add the 90% statement that is currently an Objective as a policy in this element by creating a Policy 1.2.8 on Page 6 of 9. He recommended getting rid of the word “regulations” and instead say “...to make sure new development pays at least 90% of the capital costs of the public infrastructure directly attributable to that new development.” The motion was seconded by Mr. Brodtkin. The motion was called and passed 4-2. Mr. Daltry, Mr. Brodtkin, Mr. Green, and Ms. Pierce were in favor. Mr. Strelow and Mr. Hutchcraft were opposed. Mr. Address was absent for the vote.

Mr. Daltry referred to Policy 1.5.6 on Page 8 of 9 and stated he preferred the original wording better.

Mr. O’Connor stated staff believed the rewrite of this policy made it much clearer.

Mr. Hutchcraft suggested changing “*may be*” to “*typically*.”

Mr. Green felt it would be best to leave that as a suggestion with staff.

Mr. Address made a motion to recommend transmittal of CPA2011-00001 Capital Improvements, seconded by Mr. Strelow. The motion passed 6-1. Mr. Brodtkin was opposed.

B. CPA2011-00004 – Conservation and Coastal Management Element

Mr. Dunn reviewed this item and noted that the LPA reviewed this item once before in June of 2012. Since then, staff has been to two meetings with the Horizon Council, the Business Issues Task Force, and twice with Community Sustainability Advisory Committee. Staff has incorporated most of the comments made by these committees in addition to the LPA’s recommendations into this element. He reviewed the recommendations made by the committees.

Mr. Green opened this item for public input.

Ms. Hagen reviewed her comments for this item, which were included in the Board’s meeting packet.

Mr. Jeremy Frantz, representing the Conservancy of SW FL, referred to Policy 1.2.1, subsection d.3. on Page 3 of 39 which relates to the Conservation 20/20 program. The Conservancy feels the language is unclear with the combination of the addition in the first sentence, the strikethrough of the identification of the (1/2) mil advalorem tax, and the last sentence. The language makes it seem as if the program is not currently functioning and that the County is just evaluating this program. However, this is not true because even in the case that there are no more land purchases, the program does function in terms of maintenance of those lands that have already been purchased. Regarding the language stating “*a minimum of ten percent of the funds...*,” it is unclear what funds they are referring to. The Conservancy feels the language should be changed to identify what funds are being referred to and to make it clear that the program is functioning and that they will continue to implement the program.

Mr. Address agreed that the funds to be used for this program need to be identified. He was also concerned with attempting to delete language about adopting and implementing this program because this program was approved by the voters. It is not functioning as the voters intended.

Mr. Brodtkin referred to Policy 60.1.5 on the bottom of Page 15 where it says, *“Provide exemptions for individual residential structures and for historic districts.”* He noted there were a lot of issues in North Fort Myers where someone purchases a property and there is existing drainage on a property such as a ditch running down the property line or elsewhere. The property owner fills it in and it impacts others around them. He felt there needed to be some regulations in place to prevent this.

Mr. Address agreed with Mr. Brodtkin’s comment and also felt there should be a size criteria if the County is going to exempt residential. He gave an example of a neighbor owning 10 acres who put a berm up on his property line. This diverted the water to the roadway and has caused the road to be flooded.

Mr. Brodtkin stated this happens on a small scale as well and happens often on Burnt Store Road. He gave an example.

Mr. Strelow felt it was odd for the County to provide for exemptions without giving any criteria. Normally, there is language that says, *“based on serious economic hardship”* or *“minimum size of property.”* He felt there should be some indication of what the basis is for such exemptions otherwise it is wide open.

Mr. Address suggested saying *“no adverse impacts to the surrounding properties.”*

Mr. Green felt this would entail a big change because once a development is complete there are platted lots. This change could mean that each person coming in to develop their platted lot would have to provide a stormwater management plan as part of their permitting process.

Mr. Brodtkin clarified that he was not asking for that. He just wanted there to be a requirement in place so that someone cannot negatively impact their neighbors for stormwater. He felt there needed to be some way to address that because right now people have to take a legal course of action and not everyone can afford that process or they do not want to have to use an option of suing someone.

Mr. Address asked if staff objected to language that would say *“the exemption will be granted if there is no adverse impact to adjoining properties.”*

Mr. O’Connor stated the LPA could make that recommendation and staff would evaluate it. He also explained this section to the LPA in order to provide further clarification.

Mr. Green still felt that Mr. Brodtkin’s suggestion would be putting more requirements on single family home owners.

Ms. Pierce believed that many times people are not aware of the larger drainage system and how their property fits into that. There should be a public education component specific to water conservation, which could help to avoid some of these problems. She also noted we had a GIS department that can create dynamic mapping systems that could visually convey quickly to a new property owner how and where that water runs.

Mr. Andress made a motion that Policy 2.3.4 be amended to read “Provide exemptions for individual residential structures for historic districts as long as there is no adverse impact to adjoining property owners,” seconded by Mr. Brodtkin.

Mr. Hutchcraft stated we are subject to “*legacy development*” where there are lots that were created prior to common day stormwater management systems. He gave an example of how his home was built 25 years before two of his neighbors. As such, they built 5 feet higher on their lot. However, there are people such as himself that have chosen to live in a neighborhood that does not provide an urban level of water management. If something is to be added, he felt the appropriate place would be the Land Development Code. He noted that the problem he had with the “*no adverse impact*” language is that it is an unmeasurable standard.

Mr. Strelow stated he would support the motion because, although the details should be in the Land Development Code, he felt it was appropriate to at least have very brief language in the Plan itself.

Mr. Hutchcraft stated it could cause a burden on a previously created vested lot owners to meet a standard that they cannot meet if they want to utilize their property.

Mr. Green agreed with Mr. Hutchcraft that this could necessitate a lot owner to do a stormwater management permit which is over burdensome.

The motion was called and passed 4-3. Mr. Strelow, Mr. Daltrey, Mr. Brodtkin, and Mr. Andress were in favor. Mr. Green, Ms. Pierce, and Mr. Hutchcraft were opposed.

Mr. Andress referred to item 3 on Page 3, which states “*The County will continue to evaluate the effectiveness of the Conservation 20/20 program.*” He asked who the County is referring to that is qualified to evaluate the program.

Mr. O’Connor stated the Board of County Commissioners appointed the Blue Ribbon Committee to perform that task.

Mr. Andress referred to Objective 2.4 on Page 19 where it says, “*Manage estuarine ecosystems to maintain or improve water quality and wildlife diversity; reduce or maintain current pollution loading and system imbalances to conserve estuarine productivity; and provide the best use of estuarine areas.*” He asked how this policy can be enforced. He reviewed a major situation in the North Cape Spreader Canal, which also happens in the Caloosahatchee River where we have too much freshwater at certain times that is killing all the sea grass beds and oysters. At other times, due to water that is needed in the Cape for their dual water system, the water becomes too salty. This means we have one of the most valuable estuaries in the State of Florida being destroyed even though there is a policy in the Comprehensive Plan that is supposed to address this issue.

Mr. Jacob stated language could be included in the Land Development Code.

Mr. O’Connor outlined where there already is language in the Land Development Code.

Mr. Andress agreed that it is not the job of the Comprehensive Plan to enforce policies that are in place already in the Land Development Code. Although he did not see a solution to this issue, he wanted the discussion to be on the record.

Mr. Daltry wanted to add five policies to this same objective: 1) ensuring the county had a proactive position on fertilizer application; 2) had a proactive position on septic tank maintenance; 3) had a proactive position on taking its own wastewater plants off direct discharge into estuarine waterbodies; 4) had a proactive position on the Water Management District Caloosahatchee River Basin Stormwater Rule to reduce the basins own impact on these big discharges into the estuaries; and, 5) had a proactive position by which package plants that are deemed to be failing or can be projected to fail will be absorbed or acquired by the County.

The LPA was in agreement with these proposed added policies.

Mr. Daltry made the following policy additions:

Policy 1 – f.: Maintain a fertilizer application regulatory program.

Policy 2 – g.: Pursue septic tank maintenance districts.

Policy 3 – h.: Adopt an ordinance for the conditions by which the County would acquire package plants.

Policy 4 – i.: Promote approval by SFWMD of a basin specific stormwater retention standard of the Caloosahatchee River.

Policy 5 – j.: Transition Lee County Utilities from estuarine discharges into other appropriate reuse areas.

The motion was seconded by Mr. Andress. The motion was called and passed 7-0.

Mr. Andress referred to Policy 2.4.2, item e., on Page 21 of 39 and explained a situation with a shrimp agriculture business in Pine Island that can potentially produce waste greater than that of 10,000 people discharging their sewage into the water. He was under the impression that they could construct buildings without building permits because it is AG.

Mr. Hutchcraft clarified that building construction is exempt from local development review for agricultural buildings, but they are not exempt from ERP requirements, DEP, water quality, etc. They are still subject to state review and permitting when it comes to water consumption and discharge of water.

Staff concurred with Mr. Hutchcraft's statement.

Mr. Brodtkin stated he wanted to see something in here stating that the County would support the Charlotte Harbor Flatwoods Initiative in cooperation with Water Management. He noted it was very important with the North Fort Myers area.

Mr. Green felt it should be included as part of Policy 108.2.2

Mr. Hutchcraft stated the County has been supportive of that initiative. He was concerned with identifying specific projects when those priorities are constantly moving and we are approaching them differently. He would support a motion from the LPA to communicate to the Water Management District and the BOCC that the LPA feels it is a worthwhile project and we should actively support it, but he was not in favor of adding this into the Comprehensive Plan.

Mr. Andress discussed Plan 6, which he felt is what Lee County needs for the excess water that is coming down the Caloosahatchee River. He gave background information on it.

Mr. Brodtkin made a motion to support and promote, in cooperation with Water Management and FDOT, the Charlotte Harbor Flatwoods Initiative and to add some verbiage to that affect on Page 21 of this element or in a separate location, seconded by Mr. Daltry. The motion was called and passed 4-3. Mr. Daltry, Mr. Brodtkin, Mr. Green, and Mr. Address were in favor. Mr. Strelow, Mr. Hutchcraft, and Ms. Pierce were opposed.

Mr. Strelow stated that even though he did not support the motion, he felt some consideration should be given to this initiative as there are valid concerns. However, he did not feel the Plan should deal with individual site specific concerns.

Mr. Hutchcraft agreed with the concept, but he was not in favor of incorporating into the Lee Plan every good concept that comes up because it will water down the Comprehensive Plan.

Mr. O'Connor felt this item was already covered under Page 1, Policy 1.1.2, which states *"Participate with other governments to prepare and implement water management plans, including the Estero Bay Agency on Bay Management, Charlotte Harbor National Estuary Program, the Charlotte Harbor Management Plan, the Water Management District Surface Water Improvement and Management (SWIM) Plan, Caloosahatchee River Watershed Protection plans, DEP Basin Management Action Plans, DEP aquatic preserve management plans, water supply plans, and other water resource management plans."*

Mr. Daltry referred to the discussion from Mr. Address regarding Plan 6 and made a motion to create a new Policy 2.4.3 to be placed on Page 21. The policy will be *"To reduce adverse discharges/flows from Lake Okeechobee, Lee County will promote and pursue increased management efforts to restore historic flow volumes to the south of Lake Okeechobee."* The motion was seconded by Mr. Address.

After further discussion, Mr. Daltry added the phrase *"as well as improving storage in the Kissimmee Basin and Lake Okeechobee"* and *"along historical conditions."* Therefore, the policy language will be *"To reduce adverse flows from Lake Okeechobee in peak discharges, Lee County will promote and pursue a three pronged approach of improved storage in the Kissimmee enhanced storage in Lake Okeechobee and increased discharges to the south along historical conditions."*

The motion was called and passed 7-0.

Mr. Hutchcraft referred to Objective 1.2, in particular, k and l on Page 4 of 39 and asked for clarification if this pertained to private or county owned land. He felt the County could reach this objective if it is for county land, but he did not see how this could be done if it is for private land.

After staff clarified it would be for county owned land, Mr. Hutchcraft asked that it be clarified in the language to reflect that.

Mr. Hutchcraft referred to Policy 1.3.6 on Page 5 of 39 and noted the word *"needless"* was struck through. His concern was that it did not appear as if you could have any impacts on the vegetative communities identified. If the only way to access your property is to impact those vegetative communities, there needs to be a mechanism to allow it.

After further discussion, it was suggested that the word *"Minimize"* replace the word *"Avoid."*

Mr. Hutchcraft referred to paragraph e. on Page 7 of 39 and expressed concern that this will be a duplication of permitting by state and federal agencies. He was particularly concerned with the addition of the words “listed species have been known to exist” stating this language indicates we do not have documented evidence that they continue to exist in this location. We only know that they have been “historically” known to exist. He proposed the language be changed to say *“In addition to maintaining, preserving, and enhancing habitat verified to be used by protected or listed species, the County will ~~require~~ coordinate with Fish and Wildlife Services and Florida Wildlife Commission to require the maintenance and preservation of viable habitat of specific protected or listed species.”* ~~where those protected or listed species have been known to exist or are known to exist in nearby or adjacent habitats.”~~

Mr. Hutchcraft referred to Policy 2.1.1 on Page 12 and was concerned with the word “purification” because he was not certain it was a standard we could meet. He suggested the word “purification” be replaced with “treatment.”

Mr. Hutchcraft referred to paragraph c. under Policy 2.3.6 on Page 18 of 39 and stated that with the word “may” there is no indication of what the standards would be for approving or denying a request. He proposed a language change.

Mr. Brodtkin was supportive of staff’s language because he felt it gave the County discretion on where things are more or less important.

Mr. Hutchcraft made a motion to change the language as follows: “Outside the future urban areas where traditional drainage structures exist (ditches, canals, dikes, etc.), the county ~~may~~ will permit their continued existence and maintenance, but ~~will~~ discourage their expansion or extension for non-agricultural uses,” seconded by Mr. Andress. The motion was called and passed 5-2. Mr. Green and Mr. Brodtkin were opposed.

Mr. Brodtkin referred to discussion that took place earlier at the bottom of Page 15. He felt there should be a way to address concerns about existing homeowners that either put up berms or plug ditches that impact their surrounding neighbors.

Mr. Strelow stated that in the world of regulation you are not going to get a state agency to come in and arbitrate between neighbors. If there is community wide damage and flooding on streets, there will be at least county level attention. Other than that, individuals will need to rely on the court/legal system for their individual use.

Mr. Brodtkin made a motion to put in a policy in the element stating that the Lee County Land Development Code will address issues of individual property owner altercations regarding berms and swales that negatively impact stormwater runoff on surrounding properties. The motion failed for lack of a second.

Regarding the Conservation 20/20 item, Mr. Daltry referred to Paragraph 3. on Page 3 and proposed the language be changed as follows: “The County will continue a program to acquire and manage lands critical to water supply, flood protection, wildlife habitat, and passive recreation. This program will be funded through ad valorem taxes approved by the Board of County Commissioners or by the voters of Lee County in the general election. A fifteen member advisory group to be called the Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC) will develop and implement the program. A minimum of ten percent of the funds will be used to manage the lands acquired.” The motion was seconded by Mr. Hutchcraft.

Due to a suggestion by Ms. Pierce a sentence was added to the end. *“A periodic evaluation shall be performed by a third party.”* The motion was called and passed 7-0.

Mr. Andress made a motion to recommend transmittal of CPA2011-00004 Conservation and Coastal Management with all of the amendments that have been voted on and passed, seconded by Mr. Daltry. The motion was called and passed 7-0.

Agenda Item 7 - Other Business

Mr. Green stated he believed this might be the last time the current LPA committee members meet collectively. He stated it was an honor working with everyone and that he found this to be a thoughtful and insightful group. He wished everyone the best in the future and encouraged all members to continue their contributions to the community even if it is not through this particular board.

Agenda Item 8 – Adjournment

The next Local Planning Agency meeting is scheduled for Wednesday, December 11, 2013, at 8:30 a.m. in the Board Chambers, Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL 33901.

The meeting adjourned at 12:00 noon.

**Errata Sheet
for CPA 2011-01
December 4, 2013 LPA Public Hearing**

Staff recommends that Policies 1.1.2, 1.1.3, and 1.4.3 be changed as follows in order to be consistent with the Interlocal Agreement for Schools:

POLICY 1.1.2: ~~The following~~ In accordance with the Community Facilities and Services Element, the county will maintain regulatory LOS standards ~~will be maintained~~ for potable water, sanitary sewer, ~~and solid waste, and schools will be maintained~~ as growth occurs in the county.

POLICY 1.1.3: ~~The following~~ In accordance with the Transportation, Community Facilities and Services, and Parks, Recreation, and Open Space Elements, the county will monitor non-regulatory LOS standards for multimodal transportation facilities, ~~school facilities, and parks will be maintained as growth occurs in the county.~~

POLICY 1.4.3: ~~Ensure~~ Plan for adequate levels of service for non-regulatory standards ~~are fulfilled~~ public facilities by monitoring and inventorying transportation, ~~public schools, regional and community parks, boat ramps, evacuation, shelters, and other~~ public services and infrastructure systems.