

**MINUTES REPORT
LOCAL PLANNING AGENCY
December 11, 2013**

MEMBERS PRESENT:

Steve Brodtkin
Wayne Daltry
Jim Green (Chair)
Mitch Hutchcraft

MEMBERS ABSENT:

Noel Andress
Ann Pierce (Vice Chair)
Roger Strelow

STAFF PRESENT:

Peter Blackwell, Planning
Brandon Dunn, Planning
Rand Edelstein, Natural Resources
Michael Jacob, Managing Asst. Cty. Atty.

Janet Miller, Recording Secretary
Matt Noble, Planning
Mikki Rozdolski, Zoning
Lee Werst, Lee County Utilities

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 – Approval of Minutes – October 28, 2013

Mr. Hutchcraft made a motion to approve the October 28, 2013 Local Planning Agency meeting minutes, seconded by Mr. Daltry. The motion was called and passed 4-0.

Agenda Item 5 – Land Development Code Amendments

A. **North Captiva**

Ms. Rozdolski reviewed the amendments for North Captiva, Caloosahatchee Shores, Lehigh Acres, and North Fort Myers Community Plan Amendments, Lehigh Acres Activity Center Regulating Plan and Wellfield Protection. Regarding North Captiva, she noted the amendments were drafted by the North Captiva Community in conjunction with the County's consultant, Dr. Margaret Banyan. Staff supports the amendments with the exception of Division 3 (Vehicles on Pathways and Beaches) on Page 6 of 19. Ms. Rozdolski explained that staff does not find these regulations to be appropriate for the Land Development Code because they are not enforceable. She explained that the community has been working with the County for a long time discussing how to enforce and address golf carts in the North Captiva community. She noted that the County Attorney's Office has talked to the community about more appropriate places for these types of regulations. Ms. Rozdolski stated staff was seeking a finding of consistency with the Lee Plan for these amendments with the exception of Division 3.

Mr. Daltry suggested the LPA discuss Agenda Item 5.D. at the time that they discuss Agenda Item 6.A. since they both involve Wellfield Protection. The LPA concurred.

Mr. Green felt that each section should be voted on separately.

Due to further questions by the LPA about the community's proposed amendment to Division 3, Mr. Jacob explained staff suggested a separate golf cart ordinance; however, the enforcement issues remain the same regardless of what mechanism they use to create it. The community's request deals with regulating the operation of a vehicle on a barrier island that has no code enforcement.

Mr. Brodtkin asked if the community had other options or if nothing would work no matter what they do.

Mr. Jacob stated this might be true because you have regulations being proposed that deal with how fast vehicles are going and weights of vehicles. It becomes problematic as far as code enforcement. The Sheriff's office might be a possibility, but that system would have to be created through an ordinance along with the Sheriff's willingness and ability to monitor and enforce it. He further explained that this should not be located within the Land Development Code because the Land Development Code deals with the development of land whereas Division 3 talks about the operation of a vehicle.

Mr. Green opened this item for public comment.

Dr. Margaret Banyan gave an overview of the process, public participation, and all the codes the Community is proposing. She reviewed the issue the community had with golf carts mainly dealing with their speed on narrow shell pathways that are not considered roads because they are private easements of a property. She also noted that the community had discussions with the Sheriff's Department and they will not enforce something that is in the Land Development Code. It would be a code enforcement issue.

The LPA understood the community's plight, but agreed with staff that these regulations do not belong in the Land Development Code.

Mr. Hutchcraft expressed concerns with establishing a condition that the County cannot implement and the Sheriff's Department will not implement. He noted this level of regulation is done frequently, but through a better mechanism such as covenants and restrictions, deed restrictions, and property owners associations. This is a community preference that the community is trying to shift onto the County. He encouraged the community to try the other avenues he mentioned.

Mr. Daltry referred to the Communities Element that will be forthcoming. He asked that staff review whether the issue brought forth today could be included as part of that particular element in the appropriate section. He asked the community to work with staff on that to see if there is an amendment that could be made.

The public input segment continued. Public input was received from Kristie Anders, Francis DeTure, and Linda DeTure.

Mr. Green referred to Policy 25.2.3 in the Comprehensive Plan that states, “*Except for emergency events, public purposes, approved community needs, and permitted heavy construction equipment, internal combustion powered vehicles are banned from all pathways on North Captiva.*” He felt the Comprehensive Plan might be out of date based on technology advances. It seems as if the intent is there, but we now have battery driven/electronic vehicles. He felt a first step might involve updating Policy 25.2.3 in the Comprehensive Plan.

Mr. Brodtkin requested staff work with the community on changing their plan to have something in it about electric vehicles, speed, weight, and size of the vehicles.

Mr. Noble stated staff is always willing to meet with the various communities, but that staff has been working with the community already throughout this process and have suggested a standalone ordinance to deal with this issue. No matter what, it will be difficult to enforce because it is a private community and the Sheriff’s office is only out there at certain times.

Mr. Hutchcraft made a motion to find the proposed modifications for North Captiva consistent with the Comprehensive Plan except for Division 3, seconded by Mr. Daltry. The motion was called and passed 4-0.

- B. **Caloosahatchee Shores, Lehigh Acres, and North Fort Myers Community Plan Amendments &**
- C. **Lehigh Acres Activity Center Regulating Plan**

Mr. Green opened these two items for public comment. No public input was received.

Regarding the Lehigh Acres Activity Center Regulating Plan, Mr. Hutchcraft asked what would happen if someone owned a lot and only wanted to have something residential on it, but it was not consistent with this plan.

Mr. Noble clarified that this was only a voluntary mechanism. In other words, someone would be able to seek to develop under their existing zoning or seek a rezoning or a plat or some other mechanism. He noted there has been a large buy-in by a lot of the property owners. However, there are others that do not want to participate. He noted there had been a lot of public input on the development of this between the County’s consultants, County staff, and property owners.

Mr. Hutchcraft appreciated the work that had been done and felt it was appropriate to provide the opportunity for a different development pattern in Lehigh Acres. He just felt it needed to be clear whether this was a mandatory regulatory plan or a voluntary plan.

Mr. Daltry made a motion to approve staff’s recommendation and find these amendments consistent with the Lee Plan, seconded by Mr. Hutchcraft. The motion was called and passed 4-0.

Agenda Item 6 – Publicly Initiated Plan Amendments

- A. **CPA2013-00007 Wellfield Protection**

Mr. Blackwell reviewed CPA2013-07 with the LPA.

Mr. Daltry referred to deleted language in Policy 1.7.10 on Page 2 of 7 that says, *“In response to this designation, the county will maintain current regulations to provide that new irrigation well permits in the Irrigation Well overlay may not utilize the main potable water source.”* He asked if the county still had these current regulations.

Mr. Lee Werst from Natural Resources stated regulation currently exists in Ordinance 06-09, but that staff was in the process of rewriting that ordinance so that it can be removed from the Lee Plan. The current regulation covers Lehigh Acres as well as Bonita Springs. Regarding Lehigh Acres, the existing regulation is for the diameter of a well that may be installed. It is not for the regulation of depth or the use of water from that well.

Due to questions by Mr. Daltry, Mr. Werst confirmed that the District raised the issue. They do not have a problem with the diameter. They have a problem with source management.

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

Mr. Daltry made a motion to recommend transmittal of CPA2013-07, seconded by Mr. Hutchcraft. The motion was called and passed 4-0.

Agenda Item 5 – Land Development Code Amendments

D. Wellfield Protection

Mr. Rand Edelstein from Lee County Utilities explained these are some revisions to the Wellfield Protection Ordinance as it occurs in the Land Development Code. These revisions are being made to update the protection zone areas based on newer production wells that have been installed and some production wells that were originally mapped based on proposed locations. The actual locations have shifted slightly. In addition, it increases the protection zone for aquifer storage and recovery wells from the 500 foot radius to 2,640 foot radius. This has been required by the Florida Department of Environmental Regulation to provide institutional control. This protection zone only limits the installation of a water supply well that is completed into the storage zone aquifer that the aquifer storage and recovery well is completed in.

Mr. Brodtkin asked how many storage and recovery wells were in Lee County.

Mr. Edelstein stated we currently have one aquifer storage and recovery system at the Corkscrew Water Treatment Plant, which is comprised of five aquifer storage and recovery wells. Those wells are completed in the Middle Hawthorn aquifer. In addition, we have two aquifer storage and recovery wells at the Olga Water Treatment Plant, which are completed in the lower Suwannee aquifer. Both of the aquifers that have ASR wells completed in them are more saline and are not potable without reverse osmosis water treatment.

Mr. Brodtkin asked for clarification regarding property owners within the 2,640 foot radius. He asked if those property owners would have other options for reasonable water for their site if they owned five acres and wanted to put a home on it with a well.

Mr. Edelstein stated they would have other options. In most of Lee County there are approximately seven different aquifers available. The fresher aquifers generally used for residential water supply or for agricultural irrigation would be the shallower aquifer, which is the water table or sandstone aquifer and in some instances the Middle Hawthorn aquifer.

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

Mr. Hutchcraft made a motion to accept staff's recommendation to find the proposed amendments consistent with the Lee Plan, seconded by Mr. Daltry. The motion was called and passed 4-0.

Agenda Item 7 – Other Business

Airport Haul Road

Mr. Daltry stated Airport Haul Road gives a south entrance to the Airport. At that entrance, there is signage for Lee County Utilities. He asked if there were wells in that location.

Mr. Edelstein stated that just before you enter onto the airport property, there is a storage tank facility to the left (Airport Haul Water Storage Facility). It consists of two tanks and a high service pumping station. To the right of that area, approximately two miles down the road to the east, is the Green Meadows Water Treatment Plant. The wellfield for Green Meadows extends out to the east approximately four miles.

Agenda Item 8 – Adjournment

Mr. Green wished everyone a happy holiday and thanked staff for their great assistance throughout the year.

The next Local Planning Agency meeting is scheduled for Monday, January 27, 2014, at 8:30 a.m. in the Board Chambers, Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL 33901.

The meeting adjourned at 9:30 a.m.