

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20051189

1. ACTION REQUESTED/PURPOSE: Conduct a public hearing to consider and adopt an Ordinance amending and restating Lee County Ordinance No. 96-12, the "Conservation Lands Acquisition Implementation Ordinance" at Sections Three and Four of the Ordinance.

2. WHAT ACTION ACCOMPLISHES: Amends certain portions of the original implementing Ordinance for the Conservation Lands Acquisition Program.

3. MANAGEMENT RECOMMENDATION: The Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC), Administrative Staff and the County Attorney's Office recommend adoption of the Amending and Restating Ordinance.

4. Departmental Category: 12		5:00 #2	5. Meeting Date: 09-13-2005
6. Agenda:		7. Requirement/Purpose: (specify)	
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute	<input type="checkbox"/> Ordinance	<input type="checkbox"/> 96-12
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> X	<input type="checkbox"/> Admin. Code	
<input type="checkbox"/> Appeals	<input type="checkbox"/> Other		
<input checked="" type="checkbox"/> X Public			
<input type="checkbox"/> Walk-On			
		8. Request Initiated:	
		Commissioner _____	
		Department <u>County Attorney</u>	
		Division <u>1</u>	
		By: <u>David M. Owen</u>	
		County Attorney	

9. Background:
On July 31, 1996, the Board of County Commissioners adopted Lee County Resolution No. 96-07-52 as the financing mechanism for the County's acquisition of environmentally sensitive lands. On that same date, the Board of County Commissioners also approved Lee County Ordinance No. 96-12, creating the Conservation Lands Acquisition and Stewardship Advisory Committee ("CLASAC") and providing acquisition and operational criteria for environmentally sensitive lands.

On November 5, 1996, the electorate of Lee County at referendum, approved Lee County Resolution No. 96-07-52 authorizing the levy of a millage for the acquisition of environmentally sensitive lands in Lee County.

On November 5, 1996, the electorate of Lee County at referendum, approved Lee County Ordinance No. 96-12 for implementation of the Sensitive Lands Land Acquisition Program by "CLASAC".

(BACKGROUND CONTINUED - NEXT PAGE)

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
				<i>[Signature]</i>	8/19/05	<i>[Signature]</i>	<i>[Signature]</i>	8/22/05	

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY
COUNTY ADMIN: *[Signature]*

8/19/05

R.C.E.

COUNTY ADMIN
FORWARDED TO: *[Signature]*

8/25/05

4127-1

CO. ATTY.
FORWARDED
TO CO. ADMIN.

BACKGROUND: (Continued)

From 1997 to 2004, CLASAC proposed to the Board of County Commissioners for adoption, certain “Land Selection Guidelines” for property acquisition (Resolutions 97-06-82, 01-01-35 and 04-09-59). During that time, CLASAC also reviewed and discussed the provisions of the enabling Ordinance, 96-12, and is now offering for consideration, three (3) amendments to the Ordinance so as to provide additional flexibility for the implementation of the Land Acquisition Program. The amendments can be found at Section Three, Paragraphs C. and D. and Section Four, Paragraph I. of the Ordinance.

Section Three

- Paragraph C. Clarifies and designates which properties will be placed on the annual Property Acquisition Map.
- Paragraph D. Codifies the ten percent (10%) “set aside” from the Program Revenues for Restoration and Management (previously this was only a policy of CLASAC).

Section Four

- Paragraph I. Adds additional, clarifying and revising verbiage for the application of mitigation credits that may be available from acquired parcels (the original verbiage remains).
 - Paragraph a) Expands the definition of mitigation to better describe the types and kinds of mitigation available for application to projects.
 - Paragraph b) Expands the potential users of County Sensitive Lands Mitigation Credits by adding specified governmental entities. Guidelines for such use may be developed by CLASAC by subsequent instrument(s) pursuant to general law.
 - Paragraph c) Provides additional flexibility for the acquisition of desirable environmentally sensitive lands that may or may not provide future mitigation credits for public projects. That is, if a highly desirable environmentally sensitive parcel is offered for purchase, but for a variety of reasons may not be clearly of the type that would provide mitigation credits, the parcel may still be considered for acquisition by the Committee with ultimate approval by the Board.

LEE COUNTY ORDINANCE NO. ____

AN ORDINANCE OF LEE COUNTY, FLORIDA, AMENDING AND RESTATING LEE COUNTY ORDINANCE NO. 96-12, CREATING THE LEE COUNTY CONSERVATION LAND ACQUISITION AND STEWARDSHIP ADVISORY COMMITTEE; PROVIDING FOR CRITERIA RELATING TO THE PROCEDURAL IMPLEMENTATION OF LEE COUNTY'S AD VALOREM TAX LEVY PROGRAM TO PURCHASE AND IMPROVE ENVIRONMENTALLY CRITICAL OR SENSITIVE LANDS; PROVIDING FOR OBJECTIVES AND DUTIES OF THE COMMITTEE; PROVIDING FOR APPOINTMENT, COMPOSITION, TERMS AND PROCEDURES; PROVIDING FOR *REPEAL AND AN EFFECTIVE DATE.*

WHEREAS, the public health, safety and welfare is served, promoted and enhanced by the acquisition and management of environmentally critical or sensitive lands for the protection of natural flood plains, marshes or estuaries; for surface water management and water supply, for the restoration of altered ecosystems; and to provide wildlife management areas and recreation opportunities; and the conservation of said natural resources; and,

WHEREAS, applicable Florida Statutes reflect that such land acquisition and improvement serves a public purpose; and,

WHEREAS, Lee County has determined it is in the public's interest to submit to voter referendum the issue of whether the County should be authorized to levy and use certain ad valorem tax funds to finance the purchase and improvement of said lands; and,

WHEREAS, it is further in the public's interest to have any resulting acquisition and

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AUGUST 18, 2005**

improvement program procedurally implemented in a manner that sets specific guidelines for the program and provides the County with recommendations to ensure effective and successful completion of the program; and,

WHEREAS, the Board of County Commissioners recognizes the need for the creation of an advisory committee in order to advise the County and public in the implementation of the program and in proceeding with projects constituting a part of the limited general obligation bond acquisition and improvement program; and,

WHEREAS, on July 31, 1996, the Board of County Commissioners adopted Lee County Ordinance No. 96-12 to implement the Lee County Conservation Land Acquisition and Stewardship Program ("Program") through the creation of the "Land Committee"; and,

WHEREAS, the Board of County Commissioners now desires to amend and restate Lee County Ordinance No. 96-12 in order to better apply the principles of the Program as the result of certain recommendations from the "Land Committee".

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA that:

AMENDMENTS

Amending verbiage to the text of this Ordinance is shown in italic type.

SECTION ONE: NAME:

This Ordinance shall be known as the Lee County Conservation Lands Implementation Ordinance.

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AUGUST 18, 2005**

SECTION TWO: **CREATION OF AN ADVISORY COMMITTEE:**

The Board of County Commissioners hereby creates and establishes the Conservation Lands Acquisition and Stewardship Committee, hereinafter called “The Land Committee”.

SECTION THREE: **OBJECTIVES AND DUTIES:**

The “Land Committee” will advise and provide recommendations to the Board concerning the County’s environmentally critical or sensitive land purchase and improvement program, “The Land Program”. Upon formation of the Land Committee, the Board, with input from the Committee, shall establish reasonable rules, guidelines and milestones in order for the Committee to meet its objectives and duties as provided herein.

The Land Committee will perform the following functions:

- A. Review and provide recommendations concerning the County’s levy of millage and use of ad valorem funds in order to finance and implement the Land Program.
- B. Establish the parameters of The Land Program to include, but not limited to, criteria for land purchases, procedures to implement the Program, and process for ranking purchase projects. The Land Program parameters will be confirmed by the Board by subsequent Resolution.
- C. *Develop for Board approval, an Annual Property Acquisition Map depicting properties that are either nominated for acquisition and are actively being pursued for purchase, or have been purchased by the County under the Land Program.*
- D. *Set aside no less than ten percent (10%) of the Program revenues for a trust fund to enable restoration, perpetual management and public access for the acquired properties. Procedures for expenditures from the trust fund will be recommended to, and approved by, the Board of County Commissioners.*
- E. Review established Land Program criteria and guidelines and provide

recommendations for amendments and/or modifications to The Land Program that serve to enhance the effective operation of same.

- F. Provide periodic input and updates on the implementation and operation of The Land Program, to include but not limited to land purchase status, expenditures and availability of funds.
- G. Disseminate to and coordinate with Lee County local governments, potentially affected property owners and the general public by public hearing or otherwise, information concerning the program guidelines and the rationale for parcel selection.
- H. Coordinate with and assist as necessary Lee County staff in acquiring and managing the Program lands.
- I. Offer amendments and/or modifications to this Ordinance as necessary to effectively and successfully implement the Program.

SECTION FOUR: PROGRAM CRITERIA:

Notwithstanding the duties and objectives as specified in Section Three, supra, the Land

Program shall be subject to the following general criteria:

- A. All land acquisitions and land improvement functions must be consistent with the legal and financial parameters of any County levy of millage and use of ad valorem tax proceeds providing funds for The Land Program.
- B. All land purchases shall conform to those laws applicable to the County purchase of real property or any interest therein.
- C. All lands shall be purchased in a legal interest sufficient to meet the objectives for the uses of the acquired lands herein.
- D. Priorities for land purchase must be reviewed and amended, if necessary, at least on an annual basis.
- E. The Land Acquisition Program will be on a “willing seller” basis. No eminent domain will be used to acquire lands for the Program.
- F. All lands considered for purchase will be appraised by one or more

certified appraisers.

- G. In general, the lands considered for purchase should have critical or sensitive conservation value, be large enough in size to be effectively managed or be a unique/rare habitat type, contribute positively to surface water management, water supply, flood control, wildlife habitat or appropriate passive public recreation.
- H. Land purchases will be consistent with those lands as identified in the Lee County Comprehensive Plan as being appropriate for conservation and protection of natural resources efforts and public recreation.
- I. Lands to be acquired under The Land Program will be subject to the County's receipt of off-site mitigation credits from appropriate agencies or agency, as the case may be.
 - a) *For purposes of this Section I., the term "Mitigation" means, includes and applies to, wetlands, wildlife and vegetative habitats, water quality and any other forms of mitigation as defined and described by Federal and State permitting agencies when reviewing permit applications for projects which require compensatory mitigation as defined, for project environmental impacts.*
 - b) *For purposes of this Section I., any lands acquired under the Lands Program providing compensatory mitigation credits for project environmental impacts, such credits may be used for County projects and other public projects as advanced by the State of Florida, municipalities within Lee County and the School District of Lee County, subject to review and recommendation to the Board of County Commissioners by the Land Committee on a case-by-case basis.*
 - c) *For purposes of this Section I., it is the intent of this Ordinance that the requirement for the eligibility of mitigation credits from permitting agencies for lands acquired under the Program be liberally construed, so as not to preclude the acquisition of a desired, selected property that may or may not provide future mitigation credits.*

- J. Any lands identified as a priority for purchase can be removed from said listing or acquisition may upon the request of any affected land owner.

SECTION FIVE: APPOINTMENT AND COMPOSITION:

The Board of County Commissioners shall appoint fifteen (15) members to the Land Committee, as herein established. It is the intent to establish an advisory committee with a balance of environmental, business, government and civic interests in Lee County. The membership will be established by the Board upon consensus vote after a review of recommendations of appointees. Each Board member shall nominate three (3) members to the Committee.

SECTION SIX: TERMS OF MEMBERS:

The members to the Land Committee shall be appointed by the Board for a term up to three (3) years. The membership hereof shall be appointed within thirty (30) days after the favorable adoption of the non-binding Referendum of November 5, 1996 on the land acquisition issue. The Board will make subsequent appointments or reappointments in the same manner as the original appointments. Members may be replaced subject to confirmation of the Board. Unless otherwise provided by the Board, replacement members will serve the unexpired term.

The Board may remove any member who is absent for four (4) consecutive meetings upon a recommendation from the Land Committee.

SECTION SEVEN: RULES OF PROCEDURE:

- A. The Land Committee and its members shall comply with all applicable requirements of the Florida Sunshine Law, Public Records Law, Financial Disclosure Requirements (Chapter 112, Fla. Stat.), if required, and the Lee County Lobbying Ordinance.

- B. The Land Committee may adopt additional procedures of operations provided there is no conflict with State Law.
- C. Roberts Rules of Order shall dictate parliamentary procedure. The Committee will elect its own officers for a one (1) year term.
- D. All members will serve without compensation.
- E. The Committee shall adopt a meeting schedule consistent with the effective implementation and operation of the Program and the objectives set forth in this Ordinance. Regardless, in no event will the Committee meet less than quarterly unless such revised schedule is first approved by the Board. The Committee adopted meeting schedule or revisions thereto shall be forwarded to the Board of County Commissioners.

SECTION EIGHT: SEVERABILITY:

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance the powers herein provided for. If any of the provisions of this Ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of the Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included herein. Any *additional*, subsequent amendments to *this Ordinance* shall not in any way affect the validity of the levy of millage and use of tax proceeds for the Land Acquisition Program or the referendum vote of November 5, 1996. The provisions of this *Amended and Restated* Ordinance, as a procedural implementing document, shall be deemed separate and apart from *the* ad valorem tax financing and related actions.

SECTION NINE:

**CODIFICATION, INCLUSION IN CODE AND
SCRIVENER'S ERRORS:**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code; and that sections of this Ordinance may be renumbered or relettered and that the word "Ordinance" may be changed to "Section", "Article", or such other appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered and relettered and typographical errors which do not affect the intent may be authorized by the County *Manager*, or his designee, without need *for a* public hearing, by filing a corrected or recodified copy of same with the Clerk of *the* Circuit Court.

SECTION TEN:

EFFECTIVE DATE:

This Ordinance shall *become* effective upon official filing with the Secretary of the State of Florida.

SECTION ELEVEN:

REPEAL:

Lee County Ordinance No. 96-12 is hereby repealed in its entirety. The terms and conditions of this Ordinance will supercede and replace the terms and conditions of Ordinance No. 96-12.

The foregoing Ordinance was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and, being put to a vote, the vote was as follows:

BOB JANES _____
DOUGLAS ST. CERNY _____
RAY JUDAH _____
TAMMY HALL _____
JOHN E. ALBION _____

DULY PASSED AND ADOPTED this ____ day of _____, 20 ____.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

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LEE COUNTY ATTORNEY'S OFFICE
AUGUST 18, 2005

LEE COUNTY
NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the 13th day of September, 2005, at 5:00 o'clock p.m., in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

**AN ORDINANCE OF LEE COUNTY, FLORIDA,
AMENDING AND RESTATING LEE COUNTY
ORDINANCE NO. 96-12, CREATING THE LEE
COUNTY CONSERVATION LAND ACQUISITION AND
STEWARDSHIP ADVISORY COMMITTEE;
PROVIDING FOR CRITERIA RELATING TO THE
PROCEDURAL IMPLEMENTATION OF LEE
COUNTY'S AD VALOREM TAX LEVY PROGRAM TO
PURCHASE AND IMPROVE ENVIRONMENTALLY
SENSITIVE LANDS; PROVIDING FOR OBJECTIVES
AND DUTIES OF THE COMMITTEE; PROVIDING
FOR APPOINTMENT, COMPOSITION, TERMS AND
PROCEDURES; PROVIDING FOR REPEAL AND AN
EFFECTIVE DATE.**

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.
2. Interested parties may appear at the meeting in person or through counsel, and be

heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2004), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Charlie Green, Ex-Officio Clerk
to the Board of County Commissioners
of Lee County, Florida

APPROVED AS TO FORM:

By:  _____
Office of the County Attorney

Ad Size: 2 x 5

Publishing Dates: 8/30/05 & 9/6/05

April 14, 2005

To: Kate Gooderham,
CLASAC Chairwoman

From: Ray Pavelka,
Criteria & Ranking Subcommittee Chairman

SUBJECT: Subcommittee Review of Suggested Modifications to
Ordinance 96-12 and CLASAC Policies with Summary of
Subcommittee Recommendations

Last February, Chairman Barber assigned the Criteria & Ranking Subcommittee the task of reviewing several suggested modifications to both CLASAC Operating Policy and Ordinance 96-12 attached hereto as Exhibit A.

The Criteria & Ranking Subcommittee has been reviewing the questions and issues on that list for the past year. The review has taken place at our regularly scheduled Subcommittee meetings. The list of suggested modifications has been provided to each member of the full CLASAC as well as any member of the public requesting same or attending one of the Criteria Ranking & Subcommittee meetings at which these items were discussed. The list is attached to this report as Exhibit B.

The Criteria & Ranking Subcommittee had a full discussion on each of the items on this list, allowing and encouraging Staff and public participation as well as participation by every member of the Criteria & Ranking Subcommittee and those members of the full CLASAC that wished to participate on a particular item or issue. The record of these discussions is available in summary form found in the approved Minutes for each of the Criteria & Ranking Subcommittee meetings, and in verbatim transcripts of the discussions and a summary of the verbatim transcripts as prepared by Staff. All of which has been done to further evidence the extent of the discussions that the Subcommittee conducted for each item on this list.

After yet further discussion, the Subcommittee has concluded with a recommendation to modify Ordinance 96-12 in only three areas.

Our Subcommittee recommendation is to the full CLASAC for the purposes of their review and recommendation to the Board of County Commissioners. These recommendations were last reviewed and voted on by the Subcommittee at our April 5, 2005 meeting.

The Sub-Committee has also provided in this report a summary of consensus positions with respect to each of the remaining items on the list of suggested modifications. For purposes of this report a "consensus position" is a strong majority but not necessarily unanimous.

REVISIONS TO INITIAL AND SECONDARY REVIEW PROCESS.

Consensus position of the Criteria & Ranking Sub-Committee is to leave the review process unchanged. (The two-step process was deemed to be beneficial in providing a more thorough review and assessment of the opportunity to acquire a specific property on behalf of the citizens of Lee County.)

However, in an attempt to facilitate a streamlining of the process, we recommend allowing and encouraging County Lands Staff to have a discussion with the owner of nominated properties if their asking price is out of line with the expected market price of similarly situated properties. (This recommendation has already been implemented over the past several months.)

CLASAC MEMBERS' PARTICIPATION IN FIELD REVIEWS.

Our consensus position is to encourage broad participation without any prohibitions, satisfying notice requirements for public meetings in which one or more committee members attend by posting the site inspection dates and times on the Lee County website and Lee County Bulletin Board.

ASKING PRICE.

It has been extremely difficult to secure a consensus on this issue because of diametrically opposed concerns, "not wanting to miss the opportunity to consider the acquisition of a highly desirable environmentally significant but expensive parcel" vs "the public perception that the Board of County

Commissioner is paying too much for a particular property (significantly out of line with a market price), thereby inflating the market price of other similarly situated parcels that may be the subject of future acquisitions”.

In light of the above concerns, a consensus position was reached to maintain the current process (except as modified by the prior recommendation) so as to inform the CLASAC as to how the asking price compares to an expected market price but not to preclude a nomination from coming before the Criteria & Ranking Sub-Committee/CLASAC solely because the asking price is too high.

ALLOW FOR THE SALE OF TRANSFER OF DEVELOPMENT RIGHTS (TDR'S).

Discussion of this issue seemed to raise more questions than provide answers or direction, however, based on Paul O'Connor's response to CRSC question “What happens to development rights that are acquired by Conservation 20/20?”, Paul O'Connor advised the simple answer to that question is when property is acquired in the Conservation 20/20 Program, the Conservation 20/20 Program retains the development rights of those properties and disallows those rights from being exercised. Our consensus position is as follows:

When 20/20 purchases a parcel with a value based on X dollars per unit, then those units should be retained on that parcel (not to be developed or “allocated” to any other property in the County). No development or reallocation of these acquired units is authorized unless or until a specific TDR program is established which includes appropriate compensation to 20/20 for any development rights transfer. Any TDR program should be subject to review of the CLASAC followed by recommendation to the Board of County Commissioners. Notwithstanding the above, the Sub-Committee is not recommending that a TDR program be established for 20/20 parcels or their development rights.

CONSIDERATION OF CONDEMNATION AS AN ACQUISITION TOOL.

Based on the clear understanding that this program is a willing seller program, there was a strong consensus not to implement the use of condemnation for 20/20 acquisitions.

MITIGATION.

The Criteria & Ranking Sub-Committee **recommends amending the Ordinance:**

- 1) to clarify that “mitigation” as stated in Ordinance 96-12 includes “wetlands”, “habitat” (wildlife and vegetative), “water quality”, and other forms of mitigation referred to by State and Federal agencies when reviewing the County's permit applications and requiring “compensatory mitigation” for proposed impacts; and
- 2) to clarify that it is not the intent of the Ordinance to discriminate against the acquisition of any one or more parcels that may or may not be eligible for some form of mitigation now or in the future, and
- 3) to clarify that any 20/20 parcel providing compensatory mitigation may only do so for Lee County owned projects.

OWNERSHIP/PARTNERING.

The consensus position of the Sub-Committee was to strongly favor Lee County ownership of lands acquired, but not to preclude partnering. Partnering opportunities should be explored and continue to be considered on a site specific and partner specific basis.

CONSERVATION EASEMENTS VS. FEE SIMPLE.

A strong consensus position developed to continue focusing on fee simple ownership of acquisitions but not preclude other forms of ownership. (The County Attorney's office expressed the opinion that as currently written Ordinance 96-12 does allow for acquisition by Conservation Easement in lieu of fee simple title.)

INCORPORATE CURRENT POLICY OF 10% SET ASIDE FOR MANAGEMENT INTO THE ORDINANCE.

A consensus position has been developed by the Criteria & Ranking Sub-Committee to **amend the ordinance** to establish a minimum of a 10% set aside for long-term management. Whether the expenditures are limited to only interest earned, principal of the set aside (currently not limited but subject to a specific recommendation by CLASAC), or allow for special allocations of grant dollars to be applied to restoration and/or facility development; shall be subject to the recommendation of CLASAC to the BCC.

MAPPING.

The Criteria & Ranking Sub-Committee consensus is to **amend the Ordinance** to clarify the intent of having a 20/20 map. Specifically, is it the intent of Ordinance 96-12 to prioritize or map targeted properties for this willing seller program, or map only to identify properties that have been nominated and are being considered for purchase and/or have been purchased?

The majority of the Sub-Committee accepted the latter as the intent of the Ordinance. A more detailed explanation of the minority opinion is attached hereto as Exhibit C.

SHOULD 20/20 SPECIFICALLY INCLUDE THE ACQUISITION OF ARCHAEOLOGICAL/HISTORICAL RESOURCES.

A strong consensus position was developed by the Criteria & Ranking Sub-Committee to not have these elements become stand-alone acquisition criteria within the Ordinance 96-12. However CLASAC should continue to recognize the benefits (with some possible liabilities) of these resources as they may be a part of the environmentally sensitive parcels being considered for acquisition.

CONSERVATION LANDS ACQUISITION AND STEWARDSHIP ADVISORY COMMITTEE

MEETING MINUTES

April 14, 2005

CLASAC Members

Rick Barber excused himself at 7:30
Bill Burdette
John Cassani
JoAnne Fowler
Kate Gooderham
Bill Hammond
Mitch Hutchcraft* excused himself at 7:45
Alex LePera
Erick Lindblad
Ray Pavelka*
Wiley Parker
Gary Tasman
George Wheaton excused himself at 6:55

STAFF:

Jeff Anderson
Renee Armstrong
Terry Cain
Roger Clark
Karen Forsyth
Sherry Furnari
Jim Lavender
David Owen
Lynda Riley
Laura Wewerka
John Yarbrough

Members Absent:

Matt Bixler
Ralph Williams

*Arrived after the meeting was reconvened.

1. **CALL TO ORDER**

Kate Gooderham called the meeting to order at 5:30 pm.

2. **APPROVE MINUTES** – February 24, 2005 CLASAC Meeting

After noting a few corrections, **Joanne Fowler moved approval of the Minutes as revised. Bill Hammond seconded. Motion carried unanimously.**

3. **PUBLIC COMMENT**

An offering of appreciation was presented to Anik Smith for her contributions to the Land Stewardship of the Conservation 20/20 program. A brief intermission for refreshments was taken.

4. **STATUS REPORTS**

A. Negotiations/Acquisitions

1. Nominations 274 & 276

Karen Forsyth reported the property owner has requested yet another extension to continue negotiations. Staff is requesting a decision from the committee to either suspend negotiations pending contract outcome or withdraw Nominations 274 and 276 from the program. **Gary Tasman recommended withdrawing Nomination 274 and 276 until a true willing seller could be identified. Ray Pavelka seconded.** Phil Buchanan stated the Calusa Land Trust agreed with the CLASAC decision to withdraw the parcel. *The motion passed with no objection.*

2. Site 93 - Tiburon and Timberland (T&T) Mitigation Funds

After a long and tedious process, staff has identified a portion of Conservation 20/20 Nomination No. 93 to be utilized for the T&T restoration/mitigation fund. A brief history of the fund was given. This committee recommended to the BoCC to use this fund to "buy" eligible 20/20 property and pay back funds to the 20/20 program 4-5 years ago. Staff is advising there is finally enough money available in the T&T fund (\$850,000) to reimburse land acquisition costs for a portion of Conservation 20/20 Site 93. It was explained that the land will remain in Lee County ownership, but will be managed and restored with T&T funding. Roger Clark stated Parks and Recreation is requesting that T&T funding be provided for the management of its portion of Site 93. **After discussion, this item was deferred to the Management Subcommittee to make a recommendation to CLASAC on how much T&T funding should be placed into the 20/20 Management Account. With no opposition the motion passed.**

3. Acquired/Negotiation/Impasse Report

Staff stated the report was self-explanatory with concerns highlighted. This report is posted to the Conservation 20/20 web page.

B. Cash Flow

Cash flow statement was distributed.

C. Management Report

Staff reported there would be a ribbon cutting on Pine Island Flatwoods Preserve, May 5th at 1:00 pm. The Wild Turkey Strand Preserve Management Plan is nearing completion; any comments should be submitted to staff as soon as possible. The first draft of the Pine Lakes Preserve Management Plan will be available at the end of April.

5. **MANAGEMENT SUB-COMMITTEE REPORTS**

A. Deep Lagoon Management Plan

The Management Subcommittee recommends approval with comments that have been submitted. Gary Tasman seconded. Motion approved unanimously.

B. Use of Conservation 20/20 Lands For Off-Site Mitigation

The Management Subcommittee recommends allowing public entities to mitigate on 20/20 land after the specific project has been evaluated and approved on a case-by-case basis. Ray Pavelka declared a conflict of interest. Mitch Hutchcraft declared a conflict of interest as well. Forms 8B were appropriately filed from both members declaring conflicts.

The Management Subcommittee's recommendation is that CLASAC recommend that the Board of County Commissioners amend the governing ordinance to allow consideration of off-site mitigation credits on conservation 20/20 lands from other government agencies.

RESTATEMENT OF MOTION: CLASAC recommends to the BoCC to amend the governing ordinance to allow consideration of off-site mitigation only from other government agencies for projects within Lee County's boundaries. The motion was called, with five in favor (Wiley Parker, Bill Hammond, John Cassani, Bill Burdette, and Rick Barber); six opposed (Kate Gooderham, Erick Lindblad, Joanne Fowler, George Wheaton, Alex LePera and Gary Tasman); and two abstentions (Ray Pavelka and Mitch Hutchcraft), the motion failed.

Erick Lindblad moved that mitigation for public sector projects be allowed to take place on Conservation 20/20 parcels to be approved by CLASAC on a case-by-case basis for projects taking place in Lee County. Rick Barber seconded. *In favor 11, none opposed, 2 abstentions.*

Alex LePera said she did not feel the need to abstain, but wanted it noted that she represents one of the municipalities within Lee County.

6. CRITERIA & RANKING SUBCOMMITTEE (CRSC) REPORTS

A. Initial Reviews

1. Nomination 277 – This nomination was withdrawn by the property owner due to a third party contract.
2. Nomination 278 – Lynda Riley reviewed the staff report. The CRSC recommendation is to not forward to secondary review. **Mitch Hutchcraft moved approval of the CRSC recommendation to not forward Nomination 278 to Secondary Review. Gary Tasman seconded. *The motion passed with no opposition.***
3. Nomination 279 – Lynda Riley reviewed the staff report. The CRSC recommendation is to not forward to secondary review. **Mitch Hutchcraft moved approval of the CRSC recommendation to not forward Nomination 279 to Secondary Review. *With no opposition the motion passed.***
4. Nomination 280 – Lynda Riley reviewed the staff report. The CRSC recommendation is to forward to secondary review. **Gary Tasman moved approval of the CRSC recommendation to forward Nomination 280 to Secondary Review. Bill Hammond seconded. *Rick Barber opposed.***
5. Nomination 281 – Lynda Riley reviewed the staff report. The CRSC recommendation is to forward to secondary review. **Bill Burdette moved approval of the CRSC recommendation to forward Nomination 280 to Secondary Review. Erick Lindblad seconded. *With no opposition the motion carried.***
6. Nomination 282 – Lynda Riley reviewed the staff report. CRSC recommendation is to not forward to secondary review. Ray Pavelka commented that the property had access, but the means of access was through a private easement and not sufficient for this program. **Mitch Hutchcraft moved approval of the CRSC recommendation to not forward Nomination 282 for Secondary Review. Gary Tasman seconded. *With no opposition the motion carried.***
7. Nomination 283 – Lynda Riley reviewed the staff report. CRSC recommendation is to forward to secondary review. **Mitch Hutchcraft moved approval of the CRSC recommendation to forward Nominations 283 and 284 for Secondary Review. Alex LePera seconded.** Rick Barber said this asking price is insane. Karen Forsyth stated that staff believes the asking prices to be higher than their estimated market range of value. Terry Cain will be asking for \$100,000 from the Town of Fort Myers Beach; and also noted a FCT grant was a strong possibility for acquisition cost reimbursement. Bill Burdette asked if this parcel would be managed as part of the Matanzas Pass Preserve. Staff commented affirmatively.

Bill Hammond commented on the environmental characteristics and additional parking would be a benefit. Karen Forsyth stated the Matanzas Preserve property was donated to the County about 10-years ago by The Nature Conservancy with no legal access and the acquisition of these parcels could help cure this issue. *Rick Barber opposed. The motion carried.*

8. Nomination 284 – See Nomination 283.

B. Suggested Modifications to CLASAC Operating Policy and Ordinance 96-12

Ray Pavelka gave some background on the memo submitted to the Committee. He clarified that a consensus position meant a strong majority, but not necessarily a unanimous decision. Ray Pavelka has declared conflict and filed a Form 8B with respect to the mitigation section.

Review Process – It is currently a 2-step process: initial review and secondary review. In conjunction with this, County Lands Staff is authorized to have discussions with the owner if the asking price is not in line with the market trend.

Transfer of Development Rights (TDRs) – The Subcommittee does not recommend that a TDR program be established for the 20/20 program. The development rights should stay with the property. Mitch Hutchcraft said he is not strongly in favor or against, because there might be a point in time where there might be an application where a transfer of such rights would be appropriate. Bill Hammond suggested following the committee recommendation at this time, and come back and revisit if things change.

Condemnation – The Subcommittee is opposed to condemnation for 20/20 parcels. CLASAC concurred.

Mitigation – This was a recommendation to amend the ordinance. There are 3 parts to the recommendation: 1) to clarify the definition of mitigation to; include wetlands, wildlife and vegetative habitat, water quality, and other forms of mitigation referred to by state and federal agencies when reviewing County permit applications; 2) Do not discriminate against parcels because of their mitigation opportunities; 3) Do not allow other public agencies to use 20/20 lands for offsite mitigation – a motion was passed earlier in the meeting inconsistent with this recommendation. Therefore, this item will be removed from the CRSC recommendation to CLASAC.

Ownership and Partnering – Conservation 20/20 needs to retain ownership, but will partner where appropriate. All were in agreement.

Fee Simple Ownership – Although other types of ownership are not precluded, fee simple will continue to be the acquisition focus of choice.

Management Percentage – Amend the ordinance to establish a minimum of 10% set aside for long-term management. This is currently a policy and the Subcommittee would like it added to the ordinance. Kate Gooderham asked if language could be changed to include "restoration" as well as management. All were in agreement.

Conservation Land Acquisition and Stewardship Advisory Committee
MEETING MINUTES, April 14, 2005 (Continued)

Mapping – To amend the ordinance to have language regarding a 20/20 map. The consensus was to have a map only to identify properties that have been nominated and are being considered for purchase and/or have been purchased. There is also a minority opinion expressing a desire for an acquisition strategy. Erick Lindblad agreed that somewhere in the criteria, there should be a way to evaluate properties and their position on other planning maps. Bill Hammond was opposed to a strategy map, but agreed a map that shows where we are and where public lands are would be very useful. John Cassani stated this issue has come up over the years and keeps coming back time and time again. He would like this issue looked at some more. This mapping recommendation is postponed to next meeting.

Archaeological – CLASAC agreed with the CRSC recommendation that historical and archaeological resources are not sufficient reasons alone to qualify for 20/20 acquisition, but these criteria would be considered on a case by case basis.

Management and Restoration - These items will be heard at the next meeting.

7. SET NEXT MEETING DATES:

- A. MSC - The next meeting of the Management Subcommittee will meet Monday, April 25, 2005; 3:00 p.m.
- B. CRSC - The next meeting of the Criteria and Ranking Subcommittee will meet Tuesday, May 3, 2005; 3:00 p.m.
- C. CLASAC - The next meeting of the Conservation Lands Stewardship Advisory Committee will meet Thursday, May 12, 2005; 5:30 p.m.

8. ADJOURN – Chair Kate Gooderham adjourned the meeting at 8:00 p.m.

Respectfully submitted by:

Leslie Erschen, ISA Public Works and
Reneé Armstrong, County Lands

CONSERVATION LANDS ACQUISITION AND STEWARDSHIP ADVISORY COMMITTEE

MEETING MINUTES

May 12, 2005

CLASAC MEMBERS

Rick Barber
Matt Bixler, Vice Chairman
Bill Burdette
John Cassani
JoAnne Fowler
Alex LePera
Wiley Parker
Ray Pavelka
Gary Tasman (arrived at 5:41)
George Wheaton

STAFF:

Reneé Armstrong
Terry Cain
Roger Clark (arrived at 5:55)
Karen Forsyth
Sherry Furnari
David Owen
Lynda Riley

Members Absent:

Kate Gooderham
Bill Hammond
Mitch Hutchcraft
Erick Lindblad
Ralph Williams

1. CALL TO ORDER

Vice Chairman Matt Bixler called the meeting to order at 5:30 pm.

2. **APPROVE MINUTES** – Ray Pavelka asked that the names for those who abstained from motions be listed in the Minutes. **Joanne Fowler moved approval as revised, Ray Pavelka seconded.** *Motion carried unanimously.*

Change to Agenda - Membership Report added to agenda as item 5C.

3. **PUBLIC COMMENT** - There was none.

4. CRITERIA & RANKING SUB-COMMITTEE (CRSC)

A. Initial Reviews

Nomination 286 – Lynda Riley reviewed the staff report. **George Wheaton motioned to table for one month. JoAnne Fowler seconded.** *Motion carried unanimously.*

B. Secondary Reviews

Nomination 280 – Lynda Riley reviewed the staff report. The Criteria and Ranking Subcommittee (CRSC) recommendation is to pursue for acquisition. **Alex LePera motioned approval of the CRSC recommendation to pursue acquisition activities on Nomination 280; authorizing the Division of County Lands to commence negotiations. JoAnne Fowler seconded.** *With no opposition the motion passed.*

Nomination 281 – Lynda Riley reviewed the staff report. The CRSC recommendation is to pursue for acquisition. **Bill Burdette motioned approval of the CRSC recommendation to pursue acquisition activities on Nomination 281; authorizing the Division of County Lands to commence negotiations. Alex LePera seconded.** *The motion passed unanimously.*

Nominations 283 and 284 – The CRSC recommends postponing for one month until after the town of Fort Myers Beach council meeting on May 16 to receive the Town's input. Terry Cain indicated the town would be receptive to applying for an FCT grant on the behalf of the County. **George Wheaton moved to pursue acquisition activities on Nominations 283 and 284 contingent upon the Town of Fort Myers Beach agreeing to apply for a Florida Communities Trust (FCT) grant on behalf of Lee County, to include conducting all fieldwork and requirements of the application. Rick Barber seconded. The motion passed with no opposition**

Nomination 284 – included with Nomination 283.

C. Ordinance Revision Recommendations (continued from last meeting)

Mapping – The CRSC had a consensus to amend the Ordinance to clarify the intent of having a 20/20 map. The majority of the Sub-Committee stated the intent is to only map properties that have been nominated and are being considered for purchase and/or have been purchased.

John Cassani stated that perhaps the program should not have a strategy map, but as a compromise, use some other information layers that help the prioritization process. John's recommendation is to take this issue back to the CRSC and return next month with a recommendation. Bill Burdette asked if this is actually a change of the ordinance or a procedural item with the criteria and ranking process. David Owen stated the Committee has identified a few ways to go. One of the things required by the Ordinance of the committee is that the property acquisition map has to be approved by a resolution. Staff mentioned having past negative experiences with targeting properties with respect to other County projects. David Owen suggested the subcommittee and full committee discuss this subject in more depth.

Karen Forsyth stated that from the County Lands' staff perspective, a target acquisition map would increase public perception of the worth for property. Price inflation occurs because people hold out knowing that their property is on a governmental target map for acquisition. Ray Pavelka learned that staff utilizes maps from many different sources. He would rather maintain the points as is criteria and utilize available resources to further support the scores. Roger Clark mentioned the stewardship staff is concerned about not being able to concentrate on particular areas for acquisition. Karen Forsyth stated staff has sent out letters to owners in the vicinity of preserves to further the preserves. Karen said there should be a concentrated effort to add on to some areas that we already have. Ray Pavelka commented that he is against staff sending out solicitation letters. Karen said the BoCC would probably appreciate that any suggested change to the ordinance be done in concert with their budgeting process. Alex LePera agrees strongly that all proposed changes be presented at one time. She is against the target map idea. John Cassani reminded the committee that the BoCC didn't wait to renew the program for this review of the program. George Wheaton stated he agreed with John on not buying smaller scattered parcels. **Ray Pavelka moved the consensus position of the CRSC to recommend amending the ordinance to clarify the intent of having a 20/20 map only to identify properties that have been nominated and are being considered for purchase and/or have been purchased. Gary Tasman seconded.** Karen Forsyth stated the 20/20 review of criteria that properties must meet is a very thorough process. This committee and staff have worked very hard to keep the integrity of the process intact. Karen further said on behalf of County Lands, they are of the opinion there has not been one parcel acquired through

this program that was not thoroughly considered or which did not meet the requirements and the criteria of the Conservation 20/20 program. John Cassani stated we are defining the intent of the map, which has changed from nine years ago. The problems associated with a target map are associated with an extraordinary real estate market and impossible for public land acquisitions. *The motion passed with one opposition, John Cassani.*

5. MANAGEMENT SUB-COMMITTEE

- A. Wild Turkey Strand Management Plan Recommendation by MSC
The Management Subcommittee recommends approval of the Wild Turkey Strand Management Plan with the comments that have been submitted. JoAnne Fowler seconded. *The motion passed unanimously.*
- B. T&T Management Funding Recommendation for Site 93
The Management Subcommittee recommends that \$250K of the T&T funds be provided for restoration on site 93. Ray Pavelka expressed concern with 20/20 "selling" a portion of 93 and still being responsible for the management and restoration. Karen Forsyth advised T+T becomes a separate project acquired by County Lands and managed by Parks and Recreation. Staff apologized to the Management Subcommittee who spent time looking at this matter.
- C. Membership Report
Bill Burdette stated the Management Subcommittee recommends that Wiley Parker be appointed as a member of the Management Subcommittee. All were in favor.

6. OTHER BUSINESS

Reneé Armstrong both advised and inquired about the Florida Communities Trust (FCT) Wild Turkey Strand Reimbursement grant. Staff is preparing to request Board approval for the \$2.5 grant and wanted to know if a certain dollar amount had been earmarked for restoration/management or whether 100% of this funding was to be put into the acquisition fund. Management Staff indicated the restoration of the site will be substantial and 100% of the reimbursement should be set up in a restoration account specifically for the Wild Turkey Strand Preserve.

7. SET NEXT MEETING DATES

- A. MSC - The next meeting of the Management Subcommittee is meeting Monday, May 23, 2005 at 3:00 pm.
- B. CRSC – The next meeting of the Criteria and Ranking Subcommittee is Tuesday, May 31, 2005 at 3:00 pm.
- C. CLASAC – The next meeting of the Conservation Lands Stewardship Advisory Committee is Thursday, June 9, 2005 at 5:30 pm.

8. ADJOURN – Vice Chair Matt Bixler adjourned the meeting at 6:50 pm.

Respectfully submitted by:

Leslie Erschen, ISA Public Works and
Reneé Armstrong, County Lands