MINUTES REPORT  
LOCAL PLANNING AGENCY  
September 22, 2008

MEMBERS PRESENT:  
Noel Andress  
Les Cochran (Vice Chair)  
Ron Inge  
Jacque Rippe  
Carleton Ryffel (Chair)  
Rae Ann Wessel

MEMBERS ABSENT:  
Leland Taylor

STAFF PRESENT:  
Peter Blackwell, Planning  
Brad Browning, Env. Sciences  
Pete Eckenrode, Dev. Svcs. Director  
Mary Gibbs, DCD Director  
Brandy Gonzalez, Planning  
Lisa Hines, Zoning  
Bill Horner, Port Authority  
Michael Jacob, Asst. Cty. Atty.  
Dave Loveland, DOT  
Janet Miller, Recording Secretary  
Jim Mudd, Principal Planner  
Matt Noble, Principal Planner  
Paul O’Connor, Planning Director  
Howard Wegis, Utilities  
John Wilson, Public Safety

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

Mr. Ryffel, Chair, called the meeting to order at 8:30 a.m. in the Board Chambers of the Old Courthouse, 2120 Main Street, Fort Myers, Florida. Ms. Collins, Assistant County Attorney, certified that the affidavit of publication was legally sufficient as to form and content and entered it into the record.

Agenda Item 2 – Pledge of Allegiance

Agenda Item 3 – Agenda Recap Discussion

Mr. Noble provided the LPA with a revised agenda for today’s proceedings as well as an agenda for the September 29, 2008 carry-over LPA meeting. He reviewed both agendas with the LPA.

For purposes of the public, staff announced they were recommending that the following items be continued to the September 29, 2008 carry-over date: CPA2007-56 North Fort Myers Community Plan, CPA2007-00061 Formosa, CPA2006-12 North River Village & Verandah, CPA2007-51 San Carlos Island, and CPA2007-55 Commercial/Industrial Lands.

Mr. Andress made a motion to CPA2007-56 North Fort Myers Community Plan, CPA2007-00061 Formosa, CPA2006-12 North River Village & Verandah, and CPA2007-51 San Carlos Island, and CPA2007-55 Commercial/Industrial Lands to the September 29, 2008 LPA meeting, seconded by Ms. Wessel. There being no further discussion, the motion passed 6-0.

Mr. Inge clarified that although CPA2007-54 would also be continued to September 29, 2008, the item would still be discussed during today’s proceedings and public input will be heard.
Mr. Ryffel announced that since there was a full agenda, he would prefer to limit applicants to 30 minutes and public comment to 3 minutes per person. The LPA agreed to the time limits. No motion was required, per legal counsel.

**Agenda Item 4 – Public Forum** - None

**Agenda Item 5 – Approval of Minutes: August 25, 2008**

Ms. Wessel referred to the third paragraph on Page 4 and stated the word “evasive” should be replaced with “invasive.” She also referred to the fifth paragraph of the same page and stated that “2030” should be replaced with “2013.”

**Mr. Inge made a motion to approve the August 25, 2008 meeting minutes with the above corrections, seconded by Mr. Andress. There being no further discussion, the motion passed 6-0.**

**Agenda Item 6 – Road Impact Fee Update**

Mr. Inge announced he had a conflict of interest because he has a mining client and this proposal includes a new mining fee. Mr. Inge stated he planned to participate in the discussion, but would abstain from voting. He filed Form 8B (Voting Conflict Form) for the record.

Mr. Ryffel announced he also had a conflict of interest on this item. Mr. Ryffel stated he would participate in the discussion, but abstain from voting. He submitted Form 8B (Voting Conflict Form) for the record.

Ms. Gibbs gave an overview of this proposal. She noted Clancy Mullen, Consultant, would also review this item with the LPA and provide a PowerPoint presentation. This item was presented before the Land Development Code Advisory Committee (LDCAC) and the Executive Regulatory Oversight Committee (EROC). It is scheduled to go before the Affordable Housing Committee this afternoon. There will also be a public hearing with the Board of County Commissioners, tomorrow, 9/23/08, at 5:00 p.m. Ms. Gibbs reviewed the recommendations and comments she received from the LDCAC and EROC.

General questions and answers ensued between the LPA, Clancy Mullen (consultant with Duncan and Associates), and staff. Mr. Mullen gave the LPA a PowerPoint presentation.

Mr. Cochran asked if staff had worked closely with the mining industry regarding information shown in today’s PowerPoint presentation.

Ms. Gibbs stated that a mining representative has been placed on each of the committees, so they were informed there would be a mining impact fee and word of that was circulated. She noted that the mining industry had not seen the cubic yard calculation yet because it just took place this weekend.

Mr. Cochran stated that we have worked closely with the mining industry in the past and he wanted to make sure they would be given ample opportunity to have input into this discussion.
Mr. Ryffel asked if anyone from the public wished to comment on this item. Public input was received from Richard Durling, President of Marvin Development Corporation in Fort Myers (opposed).

The public comment segment was closed.

Mr. Inge asked that the mining fee be handled with a separate motion from the rest of the document so that he could vote on the main portion. This would require that the LPA take two separate votes.

Mr. Inge referred to conversations that took place in December regarding the proposed increases in the fire impact fee. At that time, there were concerns over the current economic situation. As a result, it was recommended that the fire impact fee not be increased at that time. Mr. Inge felt this was the same scenario if not more so. He hoped the LPA would consider this based on what happened in December with the fire impact fee.

Ms. Wessel noted the increase would only affect new development not existing homes. She noted that new construction would add more traffic to the roadways. The County is operating at a deficit in their ability to build roads as needed. Regardless of economic times, Lee County will continue to grow. She felt it was important to recognize that new development should pay for their impact to the roadways. Ms. Wessel stated the County would be setting themselves up for not being prepared when the next phase of growth begins if they do not increase the fees now.

**Mr. Cochran made a motion to take the votes separately and exclude mining from the rest of the document, seconded by Mr. Andress. There being no further discussion, the motion passed 6-0.**

Mr. Andress stated that with 45,000 foreclosed homes on the market, he could not see how the County could raise impact fees at this juncture. He also noted that only a small income stream results from these impact fee increases. Mr. Andress stated this item could be revisited in the future. **He made a motion to find the Road Impact Fee increase, excluding mining, inconsistent with the Lee Plan, seconded by Mr. Inge.**

Ms. Rippe noted that the process to get a road up and built is a very long process. She felt that by the time the County decided to modify their cost, they would already be behind, which would cause some roads to fall into a Level of Service F. She also reiterated that this only applies to new construction.

Mr. Inge noted that Mr. Andress’ motion would not eliminate the fees entirely, it only postpones the increase. The current fees are still being collected. Mr. Inge also noted that when impact fees first started, the County had a much more significant backlog of roads than they have now. New construction has paid for its impact as well as some of the backlog that existed when the impact fees were not adopted initially. He believed the new traffic counts would show an increase in the level of service.

Mr. Cochran noted there was a 90% unemployment rate, 45,000 foreclosures, hundreds of restaurants closing, and increases in vacancy rates. He did not see how the County could be proposing increases at this time. He also expressed concern over not having a current study prepared to show current data. Mr. Cochran stated he could only support the motion if a study is completed by December 31, 2008 or the first of the year showing the latest data.
Mr. Ryffel was concerned with not having current data on the land costs and, therefore, was in support of the motion.

Mr. Andress agreed to amend his motion to add that this issue should be revisited January of next year. Mr. Inge, who seconded the original motion, agreed to the amendment as well.

The motion is to find the Road Impact Fee Update, excluding mining, inconsistent with the Lee Plan with the proviso that it be revisited in January of 2009. There being no further discussion, the motion passed 4-2. Ms. Wessel and Ms. Rippe were opposed.

Mr. Noel made a motion to find the mining impact fee inconsistent with the Lee Plan because the LPA did not have adequate time to study the data supporting the increase and they have not received any new materials, seconded by Mr. Cochran.

Ms. Wessel stated she had concerns with items that are provided to the LPA over the weekend or at the meeting without given the LPA time to review it. She also was not certain that the average trip counts were correct. She was in support of this motion even though she does feel an impact fee for mining should be implemented at some point.

There being no further discussion, the motion passed 3-1. Ms. Rippe was opposed. Mr. Inge and Mr. Ryffel abstained.

**Agenda Item 7 – School Impact Fee**

Ms. Gibbs gave an overview of the school impact fees and noted that Heather Hawkins from the School District was in attendance at this meeting.

General questions and answers ensued between the LPA, Heather Hawkins (School District), and staff.

Mr. Ryffel asked if anyone from the public wished to comment on this item.Carleton opened to the public. Public input was received from Richard Durling, President of Marvin Development Corporation in Fort Myers.

The public portion of the meeting was closed.

**Mr. Cochran made a motion to find the School Impact Fee consistent with the Lee Plan and that we request the School Board provide us by 12/31/08 a detailed analysis of the projected funding for new schools, seconded by Mr. Andress.**

Mr. Cochran stated the School District has different funding sources. He wanted to see where all their funds come from, how they interact, so that it can be determined whether or not the fees should be increased. He also noted it would give the County a better picture of what the School District’s reliance is on impact fees.

There being no further discussion, the motion passed 6-0.
Agenda Item 8 – Community Plans

A. CPA2006-03 Olga Community Plan

Mr. Mudd reviewed his staff report and recommendations.

Mr. Ryffel asked if anyone from the public wished to comment on this item. Public comment was received from: Michael Ciccarone, Attorney for R & D Cattle Company, Jim Green (in favor), Bill Byrus (Applicant), Gerald Kaemmerer, (not for or against), David Depew (in favor), Daniel Blank (not for or against), Ed Kimball (in favor), Janet Trippe (in favor), John Glaser (in favor), and Dan Delisi (representing the applicant, Bill Byrus).

General questions and answers ensued between the LPA and staff.

Mr. Inge made a motion to recommend transmittal to the BOCC for CPA2006-00003 with the staff’s recommendation modified on Policy 26.7 on Page 6 to say the parking lots will be internal to the building structures with buildings lining or shielding the parking lot from the street and neighborhood, changes on Page 6 (Policy 26.14) where the last line will say “…divided by 4 equals the size of the building.” In addition, Policy 26.17 concerning the access from the local street will be deleted. Mr. Inge expressed concern with the local access from Olga Road to this commercial development. He was also concerned with including the change to commercial for the parcel owned by Mr. Byrus and the parcel owned by Mr. Bond as represented in the map attached to our package, seconded by Mr. Andress.

Mr. Cochran stated he would support the motion, but with considerable reservation because he felt that sooner or later the County would have to address funding. Although a community may want something, it does not mean the County can fund it. However, since this amendment had the support of the community and they have worked on it for a long time; he agreed to support the motion with reservation.

Mr. Andress explained his reason for supporting the motion is because there is a lengthy process that an applicant must go through before he actually gets a development order and there are checks and balances that are built into the system that allows for all of this to take place. The LPA is only charged with looking at whether this is an appropriate place for commercial. In his opinion, it is an appropriate place and the community recognizes that as well.

There being no further discussion, the motion was called to question and passed 6-0.

The LPA adjourned for a break at 10:25 a.m. and reconvened at 10:40 a.m.

Agenda Item 10 – 2006/2007/2008 Regular Lee Plan Amendment Cycle

A. CPA2006-20 - Water Supply Facilities Work Plan

Ms. Gonzalez reviewed her staff report and recommendations.

General questions and answers ensued between the LPA and staff.

Mr. Ryffel asked if anyone from the public wished to comment. No public comment was received.
Mr. Andress made a motion to recommend transmittal to the BOCC for CPA2006-20, seconded by Ms. Rippe. There being no further discussion, the motion passed 6-0.

B. **CPA2007-59 – Hurricane Evacuation/Coastal High Hazard Area**

Ms. Gonzalez reviewed her staff report and recommendations.

General questions and answers ensued between the LPA and staff.

Due to a question by Mr. Inge, Ms. Gonzalez clarified that this policy would include all of Lee County. Ms. Gonzalez stated she would include a map when it goes to the Board of County Commissioners showing where the category line is.

Mr. Inge expressed concern with the change in the evacuation time for a Category 5 storm and with the fact that this affects all of Lee County including areas that are further away from the coast. He was also concerned that we would be creating a moratorium with this new language because there is no flexibility with the way it is written. He also questioned whether this change would involve amending the Land Development Code because the Lee Plan is a superior document. Mr. Inge believed that if the Land Development Code was amended, it would affect future zoning decisions as well as the hearing examiner.

Mr. Wilson explained it was his understanding that as long as we have regulations in our Land Development Code to mitigate or offset the impact of new development on hurricane evacuation and shelters, the County will be fine with what is currently in the Land Development Code.

Mr. Ryffel asked if anyone from the public wished to comment on this item. No public comment was received.

Mr. Cochran made a motion to recommend transmittal of CPA2007-59 to the BOCC, seconded by Ms. Rippe. There being no further discussion, the motion passed 5-1. Mr. Inge opposed.

Mr. Inge explained he could not support the motion because he was still concerned with the way this document is drafted because the Comprehensive Plan filters through the Land Development Code as well as everything else. This particular criteria will be the basis for denying future rezonings in areas much further away from the coastal high hazard area.

C. **CPA2007-57 Southwest Florida International Airport Table 5 Update**

Mr. Noble reviewed his staff report and recommendations.

General questions and answers ensued between the LPA and staff.

Mr. Inge stated that although this particular amendment was to update the table and to add a particular use, he asked why the Port Authority was not looking at the square footage for other uses in this area and update the particular uses. He noted there was a lot of focus in that area right now and he was concerned the County would be missing out on great opportunities. He did not want to
see a situation where the County would not be prepared when new proposals start being submitted for projects such as the Madden Group.

Mr. Bill Horner explained that the Port Authority had been working with the Madden Group. The Madden Group will be coming back next year with a larger Lee Plan amendment to expand their project. What is being proposed today will allow the Madden Group to proceed with Phase 1 of their project. The current schedule allows for 225,000 square feet of office, however, the Madden Group needs 275,000 square feet for their project.

Mr. Andress felt the LPA was seeing a “piece meal” approach to the planning of the Airport and noted this discussion first began in 2004.

Mr. Inge stated he could support this amendment as long as things would move along quickly, otherwise, he felt staff was spending a lot of energy on a small change.

Mr. Noble stated it was staff’s intent to have another amendment next year that would have a “bigger picture” of what will ultimately happen on the map.

Mr. Ryffel asked if anyone from the public wished to comment on this item. No public input was received.

**Mr. Andress made a motion to recommend transmittal of CPA2007-57 to the BOCC, seconded by Mr. Inge. There being no further discussion, the motion passed 6-0.**

**D. CPA2007-52 – Cowart**

Peter Blackwell reviewed his staff report and recommendations.

General questions and answers ensued between the LPA and staff.

Michael Roeder, representing Richard Cowart, reviewed their proposal and stated a change to the original proposed amendment by restricting the subject property to 1 unit per 2.5 acres.

Mr. Ryffel asked if anyone from the public wished to comment on this item. Public comment was received from Fred Edman (against), Dennis Papner (against), Bruce Johnson (against), Ken Hayden (against), and Robert Olinger (against).

Mr. Bill Horner, Lee County Port Authority, stated he was in support of Mr. Olinger’s comments and the applicant’s representative that this proposal is outside the noise zone. However, even though the contours and noise zones are shrinking, there are still over flights. As technology increases in the newer aircrafts, it will cause the over flights to the Alico corridor and the industrial area on the northside of Alico Road and south of Briarcliff Road. He wanted to go on record as informing the public that sometimes the closer you get to the center of that corridor, the greater the number of aircrafts over their homes. The public will not always have the pristine country flavor with aircrafts flying over them even if there is no significant noise.
Mr. Ryffel stated he felt comfortable that the applicant made their case. He believed the applicant’s property met the definition of Open Lands. Regarding the noise zones, Mr. Ryffel felt you must draw the line somewhere and decide whether or not you want to live there. He believed that a 2 ½ acre home site was a rural life style.

Mr. Andress was in agreement with staff’s recommendation. This area has extensive wetlands and does not have sufficient infrastructure to increase density. If things change in the future where they have urban infrastructure, this issue could be revisited.

Mr. Andress made a motion to recommend non-transmittal of CPA2007-52 Cowart, seconded by Mr. Cochran. There being no further discussion, the motion passed 5-1. Mr. Ryffel was opposed.

Mr. Inge stated he would go along with the motion with the caveat that the Board of County Commissioners be advised of the 2 ½ acre issue. Mr. Inge noted he might have changed his view if he had a chance to talk to the public about it, but did not have that opportunity.

G. CPA2007-54 – Realmark Burnt Store Marina, LLC

Ms. Hines reviewed her staff report and recommendations.

Mr. Uhle and Mr. Will Stout reviewed their proposal with the LPA including a PowerPoint presentation.

General questions and answers ensued.

Mr. Cochran left the meeting at 1:30 p.m. and Mr. Andress left at 1:55 p.m.

Mr. Ryffel asked if anyone from the public wished to comment on this item. Public input was received from: Morton Fleishman (against), Thomas Loredo (against), Michael Ciccarone, Cathy Loredo (against), John Underwood (against), Victor Smith (against), Ann Shelly (against), Ken Shelly (against), Richard Farb (against), Bob Burnett (against), Sharron Mozio (in favor), Bobby Ward (against), John O’Neill (in favor), Jim Hench (in favor), Jim Getz (in favor), and Rachel Martin (in favor).

The public portion of the meeting was closed.

Mr. Inge stated that based on the fact that staff is still working with the applicant on the height and comments by staff that they wish to continue this item, he made a motion to continue this until the 9/29/08 LPA Meeting, seconded by Ms. Rippe. There being no further discussion, the motion passed 4-0. Mr. Cochran and Mr. Andress were absent.

Agenda Item 11 – Proposed 2008/2009 Lee Plan Amendments

Mr. Noble reviewed the Proposed 2008/2009 Lee Plan Amendments list with the LPA.

General questions and answers ensued.
Mr. Ryffel made a motion to approve the Proposed 2008/2009 Lee Plan Amendments list, seconded by Ms. Rippe. There being no further discussion, the motion passed 4-0.

**Agenda Item 12 – Other Business** - None

**Agenda Item 13 - Adjournment**

The next meeting is scheduled for Monday, 9/29/08, at the Southwest Florida Regional Planning Council, 1926 Victoria Avenue, Fort Myers, FL. The meeting will begin at 8:30 a.m. Staff stated they would prepare another ad to be displayed in the News-Press.

Mr. Ryffel announced he would be unable to attend the meeting on 9/29/08 and that Mr. Cochran would chair the meeting in his absence.

**Mr. Ryffel made a motion to adjourn, seconded by Ms. Rippe. There being no further discussion, the meeting adjourned at 3:45 p.m.**