

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

Blue Sheet No. **20060465**

1. ACTION REQUESTED/PURPOSE:

Approve an agreement with the Captiva Property Owners Association, Inc. to provide financial support up to \$25,000 for the drafting of an additional Lee Plan policy and Land Development Code regulations to further implement the Captiva Community Plan.

2. WHAT ACTION ACCOMPLISHES:

Sets forth requirements for the issuance of Sector Planning funds to the Captiva Property Owners Association, Inc. for the drafting of an additional Lee Plan policy and Land Development Code regulations.

3. MANAGEMENT RECOMMENDATION:

Approval of the community planning agreement.

4. Departmental Category: 4
04

A4A

5. Meeting Date: **04-25-2006**

6. Agenda:
 Consent
 Administrative
 Appeals
 Public
 Walk-On

7. Requirement/Purpose: (specify)
 Statute
 Ordinance
 Admin. Code AC 13-3
 Other

8. Request Initiated:
 Commissioner _____
 Department Community Development
 Division Planning
 By: Paul O'Connor, AICP, Director
POC 4/12/06

9. Background: The Captiva Property Owners Association, Inc. (CPOA), has requested \$25,000 for the development of an additional Lee Plan policy specific to Captiva and for the drafting of land development regulations to fully implement Goal 13, Captiva. Goal 13 of the Lee Plan was adopted by the Board on January 9, 2003 and was amended on October 12, 2005. The CPOA has already received \$25,000 of sector plan funds for the development of the Captiva Community Plan and subsequent amendments to the Lee Plan.

On June 28, 2005 the Board amended Administrative Code 13-3, Administrative Procedures Governing Community Planning Efforts Receiving Financial Support from the BOCC. That amendment to AC 13-3 increased the amount of available funding for the development of community plans from \$25,000 to \$50,000 and made each community panel eligible to receive up to an additional \$50,000 for the preparation of land development regulations necessary to implement the community plan.

This request by the CPOA is consistent with the recent amendment to Administrative Code 13-3.

Funds are available in account: LB5150715500.508309.05 (Community Development /Planning/Unincorporated MSTU/Other Grants & Aids/Sector Planning)

Attachments:
 Grant Contract
 Planning Area Map
 Funding Request

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services	County Manager/P.W. Director
<i>POC</i>	N/A	N/A	N/A	<i>D.M.C. 4-12-06</i>	<i>CPM 4/13</i>	<i>[Signature]</i>
					Analyst <i>[Signature]</i>	
					Risk <i>[Signature]</i>	
					Grants <i>[Signature]</i>	
					Mgr. <i>[Signature]</i>	

11. Commission Action:

Approved
 Deferred
 Denied
 Other

RECEIVED BY
 COUNTY ADMIN: *[Signature]*
 4/12/06
 COUNTY ADMIN
 FORWARDED TO:
 4/13/06
[Signature]

Rec. by CoAtty
 Date: *4/12/06*
 Time: *1:35pm*
 Forwarded To:
4/12/06 3:30
[Signature]

SECOND COMMUNITY PLANNING AGREEMENT
BETWEEN LEE COUNTY AND CAPTIVA PROPERTY
OWNERS ASSOCIATION, INC.

RECITALS

- A. The Board of County Commissioners recognizes that unincorporated Lee County consists of many diverse communities with various visions on how their community should develop.
- B. The residents of the Captiva community prepared and submitted a community plan that included proposed Lee Plan goals, objectives, and policies applicable to the Captiva community.
- C. The Board of County Commissioners adopted a goal, objectives, and policies on January 9, 2003, and later amended the policies on October 12, 2005.
- D. The Captiva Property Owners Association, Inc. (CPOA) has approached the County requesting planning funds to prepare and submit an additional policy to the Lee Plan and to draft Lee County Land Development Code provisions specific to the Captiva community.
- E. Lee County Administrative Code 13-3 requires communities seeking planning funds from the County to enter into a contract to govern the disbursement and use of public money on community planning efforts.

NOW, THEREFORE, THE PARTIES HERETO AGREE as follows:

1. Geographic Area. This agreement pertains to the grant of public funds to defray the cost of preparing an additional Lee Plan policy and land development regulations for a geographical area known as Captiva Island.

The geographic area has been illustrated in Exhibit A hereto.

2. Deliverables. The CPOA Community Panel (the "Panel") is responsible for the preparation of an additional Lee Plan Policy and proposed amendments to the Land Development Code applicable to Captiva. A funding request with a description of deliverables is attached hereto as Exhibit B.

3. Eligibility for Public Funds. The parties agree that Lee County will provide the CPOA with up to \$25,000 in funds that will be used solely for expenditures incurred by the Panel in the preparation and submission of an additional Lee Plan policy and proposed amendments to the Land Development Code. Total disbursements from the County for these purposes will not exceed \$25,000.

4. Applicability of Lee County Administrative Code. The parties agree that the community planning effort will be governed by the regulations set forth in Lee County Administrative Code 13-3 entitled "Administrative Procedures Governing Community Planning Efforts Receiving Financial Support From the BOCC."

5. Applicability of Florida's Public Records and Open Meetings Laws.

a. Open Government

- 1) The parties agree that the community planning effort is subject to Florida laws on Open Government. Accordingly, all meetings of the Panel and its subcommittees will be open to the public. Moreover, the Panel will provide an adequate opportunity for public participation in the Captiva community planning effort. In addition, the Panel will encourage and allow the participation of residents, property owners, the school district, and other interested parties at all meetings and workshops on the community planning effort.
- 2) The Panel will provide reasonable notice of all meetings pertaining to the community planning effort.
- 3) Notification of meetings and workshops will include the posting of meeting date, time, and location of the meeting/workshop in accordance with Section 5, Lee County Administrative Code 13-3.
- 4) The parties agree that subcommittees consisting of members of the Panel and other community members may meet for the purpose of information gathering, information sharing, and the exploration of common concerns. Subcommittee meetings are also required to be publicly noticed. Common concerns explored by the subcommittees must be presented to the full community panel during a properly noticed public meeting consistent with Section 5 of Lee County Administrative Code 13-3.

- 5) The Panel must maintain minutes of its meetings in accordance with Section 5, Lee County Administrative Code 13-3.

b. Public Records

All records created in connection with the community planning effort must be retained by the CPOA for three years following the date of submission of completed amendments to the Land Development Code. The records will be considered public records as defined by Chapter 119, Florida Statutes.

6. Record Keeping. The CPOA must retain all financial, supporting documentation, and other records necessary to document the community planning effort and expenditures during the term of this agreement. If any litigation, claim, negotiation, audit, or other action involving the records are initiated prior to the expiration of a three-year period, the records must be retained for an additional one year after the final resolution of the action and final resolution of all issues that arise from the action.

7. Assurance, certification, and compliance. The CPOA agrees that:

- a. It will comply with Chapter 760, Florida Statutes, and Lee County Ordinance 00-18 that prohibit discrimination in employment on the basis of race, color, national origin, sex, religion, disability, or marital status.
- b. Products or materials purchased with public funds will be procured in accordance with the provisions of 403.7065, Florida Statutes, which refers to the procurement of products or materials with recycled content.
- c. It will comply with the Americans with Disabilities Act of 1990, P.L. 101-336, which prohibits discrimination on the basis of disability and requires reasonable accommodation for persons with disabilities.
- d. It will notify Lee County of any significant change in the organization of the Panel.

8. Disbursement of Public Funds.

- a. Lee County will disburse up to \$25,000 to the CPOA during the term of this agreement, subject to the provisions pertaining to return of funds and suspension and termination of the agreement. (See paragraph 11.) The

CPOA agrees to spend the public funds only on items set forth in the funding request attached as Exhibit B. The County will disburse money upon the receipt and approval of a completed payment request report. Disbursements may be made in installments based on the completion of items contemplated in the deliverables. The payment request report must include documents to support the expenditures. If the CPOA fails to submit a payment request report, disbursements will be delayed until the receipt of a report. The County reserves the right to approve or disapprove payment requests.

Copies of supporting documentation must be attached to the payment request report. The County may require additional supporting documentation before agreeing to disburse money.

- b. Unsupported/unallowable costs. The County has the option to defer payment to the CPOA during the period of a County audit or monitoring due to questionable items. If, as a result of the audit or monitoring, unallowable or unsupported costs are found, no further disbursements will be made until the full amount of overpayment is remitted to Lee County or the County accepts a repayment agreement.

9. Audits, Monitoring, and Records.

- a. Monitoring. The CPOA agrees to permit County employees to inspect records, papers, and documents to be assured of satisfactory performance with the terms and conditions of this agreement. The monitoring is a limited scope of review and does not relieve the CPOA of its obligation to manage the public monies disbursed by the County in accordance with Lee County Administrative Code 13-3 and sound management practices.

Following this monitoring, the County may deliver to the CPOA a written report regarding the status of compliance with the terms and conditions of the agreement. The CPOA must rectify all noted deficiencies within the specified period of time indicated in the monitoring report or provide the County with a reasonable and acceptable justification for not correcting the noted shortcomings. The CPOA's failure to correct or justify the deficiencies within the time specified by the County may result in the withholding of future disbursements or termination of the agreement.

- b. Audit and Inspections. The CPOA will make all records and items included on financial statements available for audit or inspection purposes during normal business hours and as often as County deems necessary. The Clerk of Courts internal audit division and Lee County have the right of timely and unrestricted access to books, documents, papers, and other records of the panel that are pertinent to the agreement in order to make audits, examinations, excerpts, transcripts, and copies of those documents.

10. Risk Management. The CPOA will defend, hold harmless, and indemnify the County from and against all liability, loss, claims, damages, costs, attorneys fees, and expenses that the County may sustain, incur, or be required to pay either by reason of the loss of or improper use of money disbursed or to be disbursed hereunder including, but not limited to, fraud, embezzlement, or dishonesty on the part of any person represented or employed by the Panel, or by reason of the intentional or negligent act of the Panel or its agents, representatives, or employees.

11. Suspension/Termination. The County reserves the right to suspend the disbursement of money for failure to comply with this agreement. The County may cancel this agreement by giving 24 hours written notice to the CPOA by certified mail following a determination by the Board of County Commissioners that the cancellation is in the best interest of the people of Lee County. Neither party will have further obligations under this agreement as of the date of cancellation unless specified otherwise in the termination notice. The Panel may cancel this agreement by giving 72 hours prior written notice to the County by certified mail. The County's obligation to make further disbursements under this agreement will cease as of the effective date of termination.

12. Reports.

- a. CPOA agrees to prepare a report outlining the progress of the CPOA community planning effort and deliver the report to the County with each request for disbursement of funds.
- b. A closeout report is due 60 days after the termination of the agreement or upon the submission of proposed amendments to the Land Development Code.
- c. If the required reports are not sent to the County or not completed in a manner acceptable to the County, the County may withhold further disbursements until the reports are completed.

13. Duration of agreement. Parties agree that the CPOA, through its community panel, will deliver an additional Lee Plan policy and proposed amendments to the Land Development Code for consideration by the Lee County Planning Division no later than December 2007 unless this agreement is terminated beforehand as specified in Paragraph 11.

14. Notice. The parties agree all notices provided under or pursuant to this agreement will be in writing either by hand delivery or first class certified mail, return receipt requested, to the representative identified below and at the address set forth below. The name and address of the County representative is: Paul O'Connor, Director, Planning Division, Department of Community Development, 1500 Monroe Street, P. O. Box 398, Fort Myers, Florida 33902-0398. The name and address of the representative of the Captiva Property Owners Association, Inc., responsible for the administration of this agreement is: Hal Miller, President, CPOA, 11529 Andy Rosse Lane, Captiva Island, Florida. In the event different representatives or addresses are designated by either party after the execution of this agreement, notice of the new information will be provided in accordance with this section.

15. Applicable Law. This agreement will be construed under the laws of the State of Florida and the venue for any actions arising out of this agreement will lie in Lee County.

In witness thereof, Lee County and the Captiva Property Owners, Inc., have executed this agreement:

Attest: Clerk of Court

By: _____
Deputy Clerk

Lee County

By: _____
Tamara Hall, Chairwoman
Board of County Commissioners

Date: _____

APPROVED AS TO FORM:

Donna Marie Collins
Assistant County Attorney

Captiva Property Owners Association,
Inc., A Florida Not-for-Profit
Corporation

By: _____
Hal Miller, President

Date: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ by
(date)
Hal Miller, President of the Captiva Property Owners Associaton, Inc.,
a Florida Not-for-Profit corporation, on behalf of the corporation. He is personally known
to me or has produced _____ as identification.
(type of identification)

(Signature of person taking acknowledgment)

(Name typed, printed, or stamped)
(Title or Rank)
(Serial Number, if any)

Exhibits:

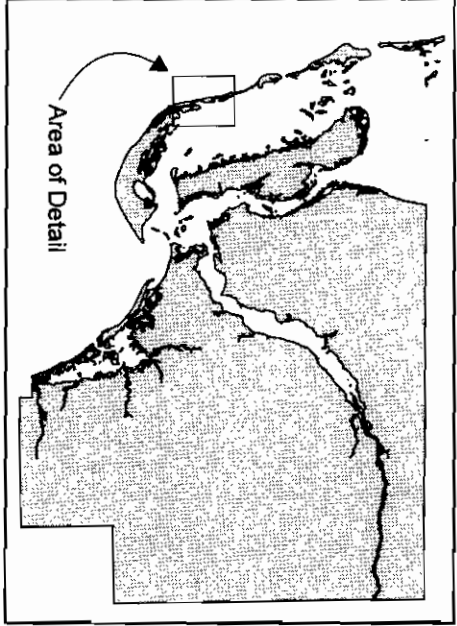
- A: Map of Geographic Area subject to the Community Planning effort
- B: Deliverables

Captiva Planning Area Exhibit A

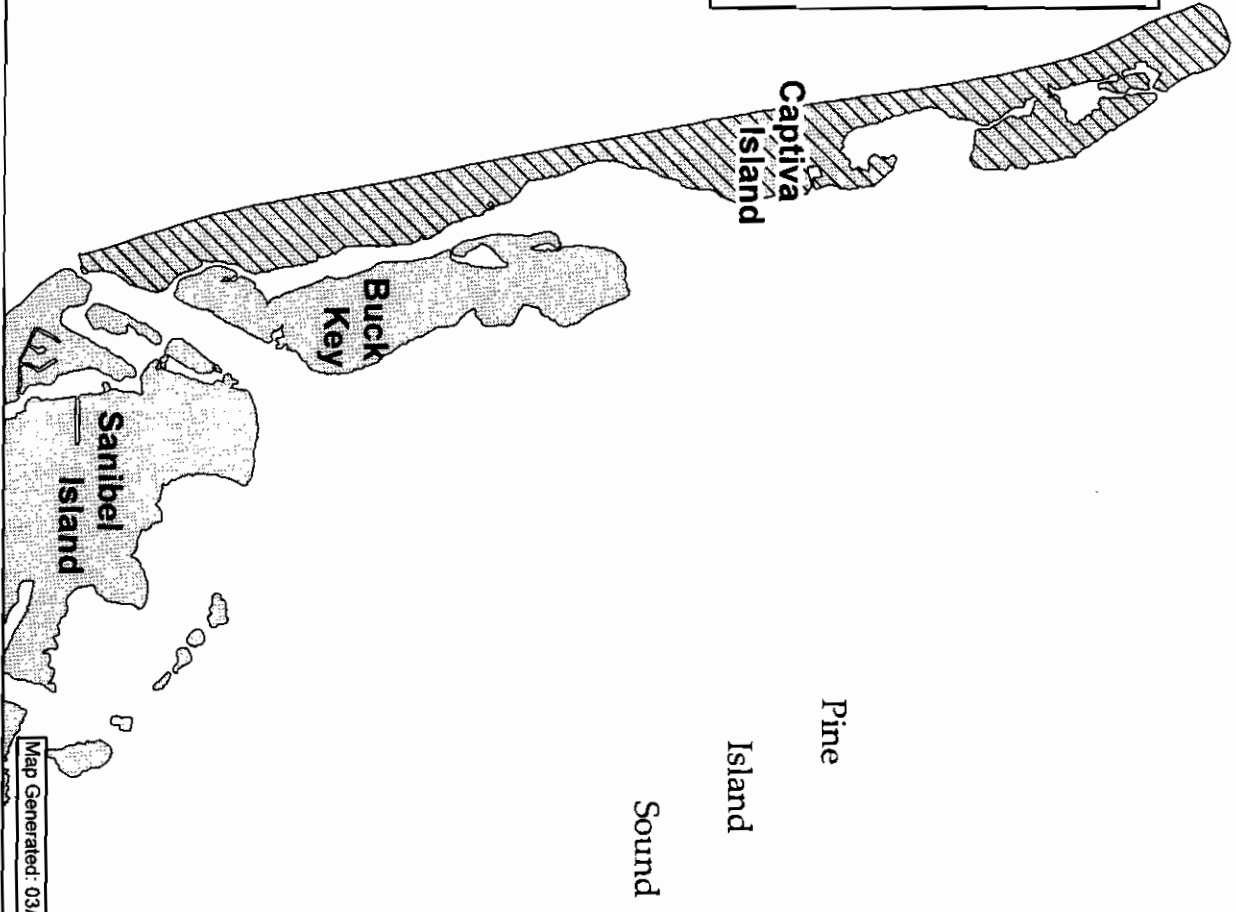
LEE COUNTY
SOUTHWEST FLORIDA
INDEPENDENT PLANNING



Planning Area Boundary



Gulf
Of
Mexico



Captiva
Island

Buck
Key

Sanibel
Island

Pine
Island
Sound

Map Generated: 03/24/06

Exhibit B

CAPTIVA COMMUNITY PANEL

April 3, 2006

James Mudd, principal planner
Division of Planning
Lee County Department of Community Development
P.O. Box 398
Fort Myers, FL 33902-0398

Dear Jim:

In accordance with Lee County Administrative Code 13-3 and the community planning agreement between Lee County and the Captiva Island Property Owners Association Inc. (CPOA) regarding community planning, on behalf of the CPOA and the Captiva Community Panel (CCP) I have been asked to request the allocation of an additional \$25,000 in funds for the ongoing community planning effort on Captiva. The original agreement was approved by the Board of County Commissioners on Jan. 8, 2002, and reaffirmed in a revised agreement approved by the board on Sept. 23, 2003.

Enclosed is an update covering CCP activities from November 2003 (when the last disbursement of county funds occurred) through February 2006, which summarizes the progress and achievements of the community planning efforts. Also enclosed is a current financial statement (indicating the community's contributions in support of the CCP during the same period, as well as expenses incurred) during that same time period.

Of course, we would be happy to provide you with any additional information and background necessary to process and expedite this request. Contact me at 489-2616 or kengooderham@comcast.net with any questions or requests.

Thanks for your consideration in this matter, as well as your ongoing efforts to assist Captivans in developing and implementing their community plan.

Sincerely,

Ken Gooderham
Coordinator, Captiva Community Panel

CAPTIVA COMMUNITY PANEL
Work Products
April 3, 2006

A) An amendment to the Lee Plan to address the viability of mixed use development on Captiva, consisting of an objective (13.2), a specific policy (13.2.1) and additional implementing language for the Lee Plan. This amendment will be prepared and delivered by March 2006 and presented at county hearings over the summer and fall of 2006, with whatever necessary steps taken to have this amendment adopted within the current amendment cycle.

B) Develop and submit implementing language to enact existing Lee Plan policies under Goal 13 as necessary. Such language will be drafted, presented for public comment, revised and submitted for inclusion in the Lee County Land Development Code (LDC). Proposed language may include implementing language for the following:

- Policy 13.1.1 – Preserving the RSC-2 zoning
- Policy 13.1.3 – Developing an initial landscaping code
- Policy 13.1.6 – Establish a document clearinghouse
- Policy 13.1.7 – Standards for public information meetings
- Policy 13.1.9 – Siting standards
- Policy 13.1.11 – Variance standards
- Policy 13.1.12 – Mangrove protection

Such language may also address consolidating and coordinating existing LDC language pertaining to Captiva to facilitate its enforcement and implementation.

BUDGET (estimated):

Item A:

Consultants	\$5,000
Copies & reproduction	\$1,500

Item B:

Consultants	\$16,000
Public meeting costs (Advertising, minutes, etc.)	\$1,500
Copies & reproduction	\$1,000

TOTAL	\$25,000
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