

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

Blue Sheet No. 20061365

1. ACTION REQUESTED/PURPOSE:

Approve an agreement with the East Lee County Council, Inc. to provide financial support up to \$37,500 for the drafting of Land Development Code regulations to implement the Caloosahatchee Shores Community Plan.

2. WHAT ACTION ACCOMPLISHES:

Provides funding to the East Lee County Council to offset costs for the drafting of Land Development Code regulations specific to the Caloosahatchee Shores planning area.

3. MANAGEMENT RECOMMENDATION:

Approve.

4. Departmental Category: 04		A4A	5. Meeting Date: OCT 31 2006	
6. Agenda:		7. Requirement/Purpose: (specify)		8. Request Initiated:
<input type="checkbox"/> Consent		<input type="checkbox"/> Statute		Commissioner
<input checked="" type="checkbox"/> Administrative		<input type="checkbox"/> Ordinance		Department Community Development
<input type="checkbox"/> Appeals		<input checked="" type="checkbox"/> Admin. Code AC 13-3		Division Planning
<input type="checkbox"/> Public		<input type="checkbox"/> Other		By: Paul O'Connor, AICP, Director
<input type="checkbox"/> Walk-On				POC 10/12/06

9. Background:

The East Lee County Council, Inc. (ELCC) has requested \$49,900 for the drafting of land development regulations necessary to implement some policies of Goal 21 of the Lee Plan, Caloosahatchee Shores.

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.

Continued:

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
Mary Gibbs	N/A	N/A	N/A	DMC	Analyst 10/18/06	Risk 10/16/06	Grants 10/19/06	Mgr. 10/19/06	10-19-06

11. Commission Action:

- Approved
- Deferred
- Denied
- Other

REC'D
by CO. ATTY.
10/13/06
11:20am
CO. ATTY.
FORWARDED TO:
10/16/06 9:00
ADEN

RECEIVED BY
COUNTY ADMIN:
10/16/06 8:47 AM
COUNTY ADMIN
FORWARDED TO:
10/19/06
10:47 AM

CLOSED TO THE PUBLIC

Background (continued):

This request for \$49,900 for the drafting of land development regulations to implement the pending Community Plan amendment is within the funding limits of AC 13-3; however, staff believes that amount of funding is more than is necessary for that task. Staff recommends approval of up to \$37,500 for the drafting of land development regulations to implement the Palm Beach Boulevard Community Plan. Combined with a separate funding request for drafting implementing regulations specific to the Caloosahatchee Shores community, staff is recommending a total of up to \$75,000 to fund both implementation efforts.

For comparison, staff has recently solicited letters of interest for the North Fort Myers community plan with an anticipated budget of \$50,000. Ten letters of interest were received for that planning effort and six firms were short-listed and four were interviewed for the project. The firm that the selection committee ranked 1st committed to a \$50,000 budget. Their budget proposes a total of 402 hours of planning services to complete the North Fort Myers Community Plan. Staff believes developing a community plan for an area the size and complexity of North Fort Myers is considerably more difficult and time consuming than writing land development regulations to implement Lee Plan policies. Estero developed their land development regulations with \$25,000 of assistance from the County.

Obtaining this grant is contingent upon ELCC complying with the terms and conditions of the contract and the provisions of Administrative Code 13-3. It is understood by all parties that the community planning effort: is subject to the Florida laws on Open Government; must provide an adequate opportunity for public participation; must provide reasonable notice of all meetings pertaining to the planning effort; and, that all meetings of the Community Panel and Subcommittees must be open to the public. The Community Panel must also maintain both recorded and written minutes of all its full meetings.

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

Attachments:

Grant contract

Map of geographic area subject to the Community Planning effort

Funding request

COMMUNITY PLANNING AGREEMENT
BETWEEN LEE COUNTY AND EAST LEE COUNTY COUNCIL, INC.

CALOOSAHATCHEE SHORES LDC

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 Caloosahatchee Shores community prepared and submitted a community plan that included a proposed Lee Plan Goal, Objectives, and Policies applicable to their community.
- C. The Goal, Objectives and Policies specific to the Caloosahatchee Shores community were adopted by the Board of County Commissioners in 2003.
- D. Some of the proposed policies specific to the Caloosahatchee Shores planning area direct the community to develop land development regulations specific to that planning area.
- E. The East Lee County Council, Inc. has requested planning funds to defray the costs incurred to prepare and submit changes to the Lee County Land Development Code specific to the Caloosahatchee Shores community.
- F. 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 land development regulations for the following area:
 - a. Caloosahatchee Shores (land development regulations)

The geographic area has been illustrated in Exhibit A hereto.

2. Deliverables. The East Lee County Council planning panel (the "Panel") is responsible for the preparation of land development regulations applicable to the Caloosahatchee Shores planning area. A detailed description of deliverables for the implementation phase is attached hereto as Exhibit B.

3. Eligibility for Public Funds. The parties agree that Lee County will disburse up to \$37,500 in funds that will be used solely for expenditures incurred by the Panel in the preparation and submission of a proposed amendment to the Land Development Code. Total disbursements from the County for this purpose will not exceed \$37,500.

4. Applicability of Lee County Administrative Code. The parties agree that the East Lee County Council 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 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 Caloosahatchee Shores 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 Panel 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 Panel 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 Panel 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 \$37,500 to the East Lee County Council, Inc. 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 Panel agrees to spend the public funds only on items set forth in the request for funding & proposed budget set forth in the document 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 Panel 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 Panel 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 Panel 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 Panel 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 Panel a written report regarding the status of compliance with the terms and conditions of the agreement. The panel 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 Panel'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 Panel 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 Panel 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 Panel 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. The Panel agrees to prepare a report outlining the progress of the Caloosahatchee Shores 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 Panel will deliver proposed amendments to the Land Development Code for consideration by the Lee County Planning Division no later than September, 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 East Lee County Council, Inc., responsible for the administration of this agreement is: Douglas J. Vaught, 250 Granada Blvd. Fort Myers, 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 East Lee County Council, Inc., have executed this agreement:

Attest: Clerk of Court

Lee County

By: _____
Deputy Clerk

By: _____
Tammara Hall, Chairwoman
Board of County Commissioners

Date: _____

APPROVED AS TO FORM:

Donna Marie Collins
Assistant County Attorney

East Lee County Council, Inc., A Florida
Not-for-Profit Corporation

By: _____
Douglas J. Vaught, President

Date: _____

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ by
(date)

Douglas J. Vaught, President of the East Lee County Council, 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 Areas subject to the Community Planning effort
- B: Funding Request

EXHIBIT A



Principals
Wayne D. Chalifoux
Donaldson K. Barton, Jr.
Lucius J. Cushman, Jr.
Jon S. Meadows
Stephen L. Precourt
Lawrence L. Smith, Jr.
William T. Stone

September 26, 2006

DRMP Job #06-0096.000

Mr. Jim Mudd, Principal Planner
Lee County Department of Community Development
P.O. Box 398
Fort Myers, FL 33902-0398

**Subject: Revised Caloosahatchee Shores Community Plan – East Lee
County Council Planning Grant**

Dear Mr. Mudd:

This letter revises our fourth request dated September 25, 2006 to submit the required information for application to Lee County for a planning grant to begin implementing the East Lee County Council Phase II Studies for the *Caloosahatchee Shores Community Plan*, and the Phase I Planning Studies for the Olga Community and the SR 31 Corridor Overlay (as sub-plans to the *Caloosahatchee Shores Community Plan*). The information is organized in accordance with Section 2 of the Lee County Administrative Code 13-3.

Section 2.2 of the code outlines the criteria needed to complete the planning grant application.

Section 2.2.a The proposed name of the community panel is the East Lee County Council. The initial members of this panel are:

- Doug Vaught, President
- John McRae, Vice President
- Janet Tripp, Treasurer
- Paul Martin, Secretary
- Gordon Brant
- Kris Cella
- Jim Green
- Mike Rippe
- Grady Miars

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This group held its first meeting on Monday, August 21, 2006, 5:00 p.m. at the Olga Community Center. A budget has not yet been adopted, but this letter may serve as the preliminary budget for the panel.

Principals

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Jon S. Meadows
Stephen L. Precourt
Lawrence L. Smith, Jr.
William T. Stone

Section 2.2.b Each of these members has already filed their financial disclosure forms with the Office of the Supervisor of Elections.

Section 2.2.c The area affected by the community plans is as follows:

- *Caloosahatchee Shores Plan* generally runs from Interstate 75 east to Hickey Creek.
 - *Olga Community Plan*, proposed as a sub-plan
 - *SR 31 Corridor Overlay Plan*, proposed as a sub-plan

Section 2.2.d The purpose of this planning grant is to begin implementing the *Caloosahatchee Shores Community Plan* and begin the Phase I Planning Studies for the Olga Community and the SR 31 Corridor Overlay, as sub-plans to the *Caloosahatchee Shores Community Plan*.

The *Caloosahatchee Shores Plan* implementation phase is to prepare the specific regulations that Lee County needs to adopt into its Land Development Code. These tasks are outlined for the *Caloosahatchee Shores Plan* in the attached list of the previously adopted (Ordinance #03-21) Lee Plan policies:

1. Policy 21.1.1: New enhanced landscaping, signage and design standards
2. Policy 21.1.2: Strategies to encourage the use of vernacular Florida architectural styles for all buildings
3. Policy 21.2.1: Regulations that provides for commercial nodes at the intersection of SR 80 and SR 31, north of SR 80 and east and west of SR 31 at Community Commercial levels
4. Policy 21.2.2: Regulations to discourage retail uses outside of commercial nodes to protect the rural residential character of Buckingham Road
5. Policy 21.2.3: New regulations encouraging minor commercial uses, public facilities and recreational areas at or near the intersection of Old Olga Road and South Olga Drive
6. Policy 21.2.4: Provide interconnect opportunities with adjacent commercial uses to minimize access points to primary road corridors with residential interconnect in the form of bike, pedestrian and equestrian trails
7. Policy 21.3.1: Provide greater buffers between commercial and residential properties
8. Policy 21.4.1: Regulations that allow no more than 4 dwelling units per acre, with the exception of mixed use projects for the residential areas fronting SR 80 and Buckingham Road

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9. Policy 21.5.1: Regulations to encourage public/private partnerships for passive recreational opportunities with Lee County, State of Florida and the National Park Service
10. Policy 21.5.2: Provide public access to the Caloosahatchee River including through the Florida Power and Light Plant.
11. Policy 21.6.3: Regulations outlining a public participation process for any proposed development within the Caloosahatchee Shores area.

The Phase I Planning Studies for the Olga Community and the SR 31 Corridor Overlay, as sub-plans to the *Caloosahatchee Shores Community Plan*, will revise previously submitted amendments to the *Caloosahatchee Shore Community Plan* which will adopt a specific Vision for the Olga Community, and enact further policies to guide development in the SR 31 Corridor. This proposal will accomplish the following tasks:

1. Review currently available information and data regarding Olga Community and the SR 31 Corridor plans.
2. Conduct a public meeting to facilitate input from the area's residents, property owners, and stakeholders.
3. Analyze the data from these discussions and meeting.
4. Revise, as necessary, the previously prepared draft plans, Vision Statement and Goals, Objectives, and Policies for the Olga Community and the SR 31 Corridor plans, based on information gathered from public input, and data.
5. Conduct the first public hearings with the LPA to obtain feedback and recommendations on the revised draft plans and the Vision Statement and Goals, Objectives, and Policies for the Olga Community and the SR 31 Corridor.
6. Based on LPA feedback and public input, prepare the final draft plans with Vision Statement and Goals, Objectives, and Policies.
7. Submit to the County, final drafts of the plans and Vision Statement and Goals, Objectives, and Policies and respond to any comments accordingly.
8. Conduct a second public hearing for approval by the Board of County Commissioners.

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The requested grant funding of \$49,900 will allow for the completion of the implementation phase of the *Caloosahatchee Shores Community Plan* and \$50,000 for the Phase I Planning Studies for the Olga Community and the SR 31 Corridor Overlay, as sub-plans to the *Caloosahatchee Shores Community Plan*. These sub-plans will ultimately amend the *Caloosahatchee Shores Community Plan*.

Principals

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Section 2.2.e The preliminary timetable for the implementation phase and the Phase I Planning Studies is as follows:

- The target date for submitting a revised draft of the Olga Community Plan and SR 31 Corridor Overlay to Lee County is one month after approval of the planning grant (contingent on community panel approval)
- The target date for submitting a complete draft of implementing regulations to Lee County is six months after approval of the planning grant (contingent on community panel approval)
- The final date for submitting these implementing regulations is twelve months after approval.
- After submission of the draft language, the community panel will assist with potential revisions during the county's normal review processes until the LDC amendments are formally adopted.
- All work under this grant is anticipated to be completed within 18 months after approval of the planning grant.

Section 2.2.f The community panel is expected to meet at least monthly until the regulations and plans are submitted, and as needed thereafter. These meetings will be public meetings and will be advertised in accordance with Administrative Code 13-3.

The procedures will be in keeping with those used in preparing the community plan update:

- Drafts of individual regulatory and planning concepts and actual language will be circulated prior to meetings of the community panel to allow time for preliminary review by panel members and others who express an interest
- Detailed discussion at the actual community panel meeting
- Redrafts will follow as needed and will be resubmitted to the community panel for review
- Continuous input will be sought from county staff and the general public

Section 2.2.g The amount of work to be completed in this project is limited by the maximum size of this planning grant (\$49,900 for *Caloosahatchee Shores Plan* and \$50,000 for the proposed Olga Community Plan and SR 31 Corridor Overlay). The primary consultant will be Dyer, Riddle, Mills and Precourt, Incorporated who has agreed to perform the services outlined herein. In addition, our sub-consultants, David M. Jones, Jr. and Associates, Inc. will provide landscape architecture; Mike Roeder will provide planning and community redevelopment services; and Prather

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Associates, Inc. will provide code regulations and land use planning all within the planning grant.

These services will be invoiced to the community panel on a monthly basis.

Section 2.2.h This planning effort to date has cost about \$30,000 for Caloosahatchee Shores. The source of these funds has been:

- Lee County Community Planning - \$ 25,000
- Private Contributions - \$5,000 (Bonita Bay Group, Cella and Associates, East Lee County Council)

The percentage of costs that would be provided from County funds has been approximately 60% to date.

Section 2.2.i The *Caloosahatchee Shores Community Plan* was generated through a grass roots effort and provides a demonstration of the ability of those involved to conceptualize a complex public planning project and ensuring that future development remains consistent with the stated vision of the community and encourages approved development to strive towards these goals, while involving extensive public input.

Should you need additional information or further clarification, please do not hesitate to contact me at (239) 344-0050.

Sincerely,
Dyer, Riddle, Mills & Precourt, Inc.

Elly Soto McKuen
Project Manager

Attachments:

1. Lee Plan Goal 21 - Caloosahatchee Shores

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