

MINUTES OF THE MEETING OF THE COLLIER COUNTY
RURAL LANDS STEWARDSHIP AREA REVIEW COMMITTEE

LET IT BE REMEMBERED, that the Collier County Rural Lands Stewardship Area Review Committee in and for the County of Collier, having conducted Business herein, met on June 5, 2009 at 9:00 A.M. in REGULAR SESSION at the Community Development and Environmental Services Building, 2800 North Horseshoe Drive, Rooms 609/610, Naples, Florida, 34104, with the following members present:

CHAIRMAN: Ron Hamel
VICE CHAIRMAN: Neno Spagna
Gary Eidson
David Farmer
Bill McDaniel
David Wolfley

ALSO PRESENT: CDES staff members Michael Bosi and Leslie Persia of the Comprehensive Planning Department; Jeff Wright, Assistant County Attorney's office; and approximately 10 members of the public.

I. Call Meeting to Order

The meeting was called to order at 9:00 AM by *Chairman Ron Hamel*.

II. Roll Call

Roll call was taken, and a *quorum was established* as 6 of 11 members were present [Brad Cornell, Jim Howard, Tom Jones, Tammie Nemecek, and Fred N. Thomas, Jr. were excused due to conflicting meetings].

III. Approval of Agenda

Bill McDaniel moved and *David Wolfley* seconded to approve the agenda as distributed. *Upon vote*, the motion carried unanimously.

IV. Approval of Minutes of the March 26, 2009 meeting

Bill McDaniel moved and *Gary Eidson* seconded to approve the Minutes of the March 26 meeting as distributed. *Upon vote* the motion carried unanimously.

V. Old Business. None.

VI. New Business. None.

Staff Note: For the sake of brevity, these minutes include only final actions taken. A recording of the entire meeting is available upon request.

A. Review of Executive Summary to the Board of County Commissioners requesting a special Growth Management Plan Amendment Cycle in 2011:

1. Much discussion occurred regarding the last sentence (top of page 2) of the first bullet of Considerations beginning on page 1 of the Executive Summary. The discussion indicated that this sentence did not accurately reflect the direction to staff from the BCC. After discussion, a motion was made by *David Farmer* and seconded by *Gary Eidson* to strike the last sentence of the first bullet.
2. The discussion expanded to all three bullets under Considerations. The Committee discussion indicated that all three bullets under Consideration should be reviewed for accuracy as it was believed by some members that the statements were not accurate. After discussion, a motion was made by *Bill McDaniel* and seconded by *Gary Eidson* that the Executive Summary accurately reflect the BCC's motions.
3. Discussion over cost sharing of the proposed RLSA amendments centered on what fair share was perceived as, since a statement in the Executive Summary indicated that "large property owners have a perceived direct benefit." After discussion, it was proposed that the Chairman craft a letter from the Committee to the BCC indicating the Committee's thoughts regarding cost sharing for the proposed amendment. The proposal failed.
4. Staff Recommendations included dissolution of the Rural Lands Stewardship Area Review Committee. Committee discussion resulted in a motion by *Nino Spagna* and seconded by *Gary Eidson* sending a letter from the Committee to the BCC stating the Committee has completed their mission.
5. A question was also raised to staff regarding the correct year 2010 or 2011 for the special GMPA Cycle. Staff responded with 2011 as the correct year, but would bring this question to the author of the report.

VII. Public Comments. Defer to recorded minutes.

VIII. Next Meeting. The Committee did not set its next meeting date.

IX. Adjournment

The meeting was adjourned by acclamation at 10:29 A.M.

Rural Lands Stewardship Area Review Committee

Ron Hamel, Chairman

These minutes approved by the Committee on _____, as presented _____ or as amended _____

EXECUTIVE SUMMARY

Request approval of the Board of County Commissioners to hold a special Growth Management Plan Amendment Cycle in 2011 to address priority amendments to the Collier County Growth Management Plan as identified by the “Five-Year Review of the Rural Lands Stewardship Program” report pursuant to the Special Meeting of the Board of County Commissioners held on April 21, 2009

OBJECTIVE:

To request approval of the Board of County Commissioners (Board) of a special Growth Management Plan Amendment Cycle (special GMPA Cycle) to amend the Rural Lands Stewardship Area Overlay of the Growth Management Plan (RLSA Overlay) and related Transportation Element policy (s) of the Growth Management Plan as recommended by the Rural Lands Stewardship Area Review Committee (Committee) in its “Five-Year Review of the Rural Lands Stewardship Program” report which was presented and accepted in its entirety as a planning document by the Board on April 21, 2009, including recommendations of the Environmental Advisory Council, the Collier County Planning Commission and the Board. The Committee was appointed by the Board on October 24, 2007 by Resolution 2007-305A.

CONSIDERATIONS:

Policy 1.22 of the RLSA Overlay mandates the five year review of the RLSA program by both Collier County and the Florida Department of Community Affairs (DCA). This review was completed through the Committee-prepared “Phase I-Technical Report” which the Board accepted and transmitted to the DCA in late May, 2008. Policy 1.22 does not require any further data from Collier County nor does it require amendments to the RLSA Overlay.

The March, 2009 “Five-Year Review of the Rural Lands Stewardship Program” report was prepared by the Committee with staff facilitation, and includes recommended amendments to the RLSA Overlay and a related amendment to the Transportation Element. The Committee presented the Report to the Environmental Advisory Council (EAC) and Collier County Planning Commission (CCPC) separately in public hearings beginning on January 28, 2009 and ending on March 10, 2009. Both the EAC and CCPC submitted individual recommendations to the Board relative to the Committee-recommended amendments to the RLSA Overlay and the Transportation Element of the GMP. Based upon EAC and CCPC recommendations, in March, 2009, the Committee made several modifications to its January, 2009 report to incorporate most of the EAC and CCPC recommendations.

The Committee-proposed amendments to the RLSA Overlay, as presented to the Board on April 21, 2009, include most of the comments and recommendations advanced to the Board by the EAC and CCPC. Following a full day of public testimony regarding the “Five-Year Review of the Rural Lands Stewardship Report” the following Board action was taken:

- By a vote of 3-2 the Board accepted the “Five-Year Review of the Rural Lands Stewardship Report” in its entirety as a planning document and authorized that it move forward to GMP amendment in a “first in and first out” order in relation to previously filed GMP amendment applications; incorporate the 404,000 credit cap and Stewardship Receiving Area (SRA) 45,000 acre cap, provided backup data is developed to determine the actual cap values; and

provided there be placed in a new RLSA GMP policy a statement to the effect that Credits do not provide vested rights to land owners and no excess credits are created. Additionally, the BCC directed that staff and stakeholders resolve any remaining differences that might exist between the Committee’s 404,000 credit proposal and the discussion the Conservancy had with respect to the CCPC’s recommended 315,000 credit cap proposal.

- By a vote of 4-1, the Board authorized proceeding into a special GMPA Cycle at the expense of the private sector in the order of: 2007/2008 Cycle...1st, IAMP...2nd, and RLSA....3rd.
- Although no vote was taken, the consensus of the Board was that the Committee has completed its mission and should be dissolved while keeping all “stakeholders” informed throughout the special GMPA Cycle following one final meeting of the Committee to review an Executive Summary from Staff to the Board which would outline:
 - a. Timing for the RLSA GMP amendments;
 - b. Total costs for the GMPA and sources to pay;
 - c. Committee recommendations regarding RLSA Review Committee dissolution.

LEGAL CONSIDERATIONS:

The County Attorney’s Office will assist staff with the implementation of the Board’s direction. This item is not quasi-judicial and as such, ex-parte disclosures are not required. A majority vote is necessary for Board action. - HFAC

FISCAL IMPACT:

There are currently no funds budgeted in the proposed FY2010 County Budget for this special GMP Amendment Cycle. However, should the Board approve this GMP Amendment Cycle, the following are the estimated costs associated therewith:

- a. Legal advertisements: for transmittal and adoption hearings before the CCPC, EAC and BCC (\$1,254 x 6).....\$7,524
- b. Court reporter: [assumes 2.0 days for EAC; 3.25 days for CCPC; and 3.0 days for the BCC].....\$12,375
- c. Cost of staff time, consultants, witnesses, minutes, etc. for a potential Administrative Hearing are unknown but would be a very large cost item.....\$?????
- d. Cost of printing (labor and materials).....\$6,000
- e. Public Services (Housing and Human Services): approximately 50 hours.....\$2,500
- f. Public Services (Parks and Recreation): approximately 50 hours.....\$2,500
- g. Public Utilities: approximately 50 hours.....\$3,500
- h. Transportation: approximately 100 hours.....\$7,000
- i. CDES Division staff: 1,000 total staff hours, including the following Departments: Comprehensive Planning, Engineering and Environmental Services, Zoning and Land Development Review, Assistant County Attorney, and Administration.....\$50,000

TOTAL ESTIMATED FISCAL IMPACT: \$91,399
(does not include the costs of administrative hearing)

By a 4 to 1 vote, on April 21 the Board indicated that the private sector would pay for the cost of this special GMP Amendment Cycle. Considering that the Rural Lands Stewardship Program is

beneficial to the entire County and the region, the Board may wish to direct that a portion of the cost be absorbed by fund 111 and as such would then have to be budgeted in the Fund 111 Comprehensive Planning Department FY2010 budget, if the Board so directs.

More specifically, Policy 1.22 of the RLSA Overlay mandated the five year review of the RLSA program by both Collier County and the Florida Department of Community Affairs (DCA). The creation of the RLSA Committee was by a BCC policy directive. The BCC accepted the “Phase I-Technical Report” which was then transmitted to the DCA in late May, 2008. The DCA did not issue any formal response to the transmitted “Phase I –Technical Report.” The plain reading of Policy 1.22 would indicate that no further data and analysis is required from Collier County nor does it require amendments to the RLSA Overlay. The DCA has verbally disputed the plain reading of Policy 1.22 and contends that at the time of the 5-year Report stage that amendments to the RLSA are warranted if the intent of the Goals, Objectives and Policies set forth in the RLSA program are not being addressed per DCA’s assessment.

Although the BCC directed that the private sector incur the cost for amendments to the RLSA, a viable argument can be made that the amendments to the RLSA serve a greater public purpose in terms of growth management coordination with the East of CR951 Horizon Study, the proposed amendments to the Immokalee Area Master Plan, and the development of the Collier County Interactive Growth Model which projects timely land use and capital infrastructure needs in conjunction with population growth in these specific areas east of CR951.

Therefore, a cost sharing proposal is set forth for consideration by the BCC as not only do the large property owners have a perceived direct benefit from proposed amendments to the RLSA, but there is an absolute direct benefit to all residents and property owners in Collier County with the resultant perpetual preservation of additional pristine environmental lands and habitat for endangered and threatened species.

The following alternative funding sources are advanced by staff for Board consideration, based upon meetings with the county manager’s office where consideration of an equitable cost sharing arrangement was discussed taking into consideration the overall public benefit to Collier County as a whole in perpetuity. The intent is not to deviate from a prior BCC policy directive, but to insure that the process of the RLSA amendments has no perceived misconception that the amendments are meant to benefit any specific agenda, any particular special interest group or any specific property owners or stakeholders. The benefit of the RLSA amendments, if any, will inure to the greater good of Collier County in perpetuity. The following cost sharing arrangement is proposed for BCC’s consideration and approval:

1. Fund 111 (\$91,399 + unknown costs of possible administrative hearing)
2. In kind services in the form of data, analysis and other items paid for by the Eastern Collier Property Owners (\$_____). Please refer to Exhibit 1 as attached for specificity.

GROWTH MANAGEMENT IMPACT:

The requested direction will have no immediate impact on the GMP. However, it will result in amendments to the GMP being reviewed and brought forth in public hearings for consideration by the EAC, CCPC and BCC, and subsequent statutory compliance review by DCA.

Based upon Board direction to proceed into a special GMPA Cycle for the GMPA/RLSA based upon “first in and first out” (i.e. 2007/2008 Cycle...1st, IAMP...2nd, and RLSA...3rd), the following schedules are advanced for Board consideration and approval:

2007-2008 Growth Management Plan Amendment Cycle Schedule

EAC Transmittal Hearing	September 21, 2009
CCPC Transmittal Hearing #1	October 20, 2009
CCPC Transmittal Hearing #2	October 29, 2009
CCPC Consent	December 3, 2009
BCC Transmittal Hearing#1	January 19, 2010
BCC Transmittal Hearing #2	February 2, 2010
DCA ORC Report	April 16, 2010
EAC Adoption Hearing	June 2, 2010
CCPC Adoption Hearing#1	July 20, 2010
CCPC Adoption Hearing #2	July 23, 2010
CCPC Consent	August 19, 2010
BCC Adoption Hearing #1	September 21, 2010
BCC Adoption Hearing #2	September 23, 2010

Immokalee Area Master Plan Growth Management Plan Amendment Cycle Schedule

EAC Transmittal Hearing	December 15, 2009
CCPC Transmittal Hearing #1	January 29, 2010
CCPC Transmittal Hearing #2	February 16, 2010
CCPC Consent	April 1, 2010
BCC Transmittal Hearing#1	May 4, 2010
BCC Transmittal Hearing #2	May 18, 2010
DCA ORC Report	July 30, 2010
EAC Adoption Hearing	September 22, 2010
CCPC Adoption Hearing#1	October 28, 2010
CCPC Adoption Hearing #2	October 29, 2010
CCPC Consent	December 2, 2010
BCC Adoption Hearing #1	January 27 +/-, 2011
BCC Adoption Hearing #2	January 28 +/-, 2011

***Note:** Standard hearing start times are as follows: EAC and BCC at 9:00a.m.; CCPC at 8:30a.m.

The existing schedule would relegate the RLSA GMP amendments to a date later in 2011. This could be problematic as the Collier County Evaluation and Appraisal Report must be completed by January 2011. If the EAR is not found in compliance the statutory penalty without exception is the inability of a local government to propose amendments to the GMP until such time that the EAR is found in compliance by the DCA.

The Collier County Comprehensive Planning Department will complete its sufficiency review for the IAMP proposed amendments on June 5, 2011. A verbal assessment of the sufficiency of the proposed amendments will be provided to the BCC at its June 9th regular meeting.

Comprehensive Planning staff is very concerned that the timing of the proposed amendments for the IAMP and RLSA could be jeopardized by the timing of the EAR. If the EAR is not completed and found in compliance the end result would be sanctions that could place the IAMP and RLSA amendments in limbo until the EAR deemed acceptable by the DCA.

The aforementioned proposed dates for the 07/08 cycle are tracking on time. It is possible that certain amendments may have sufficiency issues or be withdrawn. Regardless, county staff is committed to these dates. It should also be mentioned that the dates for the IAMP amendments are based on a finding of sufficiency and completeness without the need for additional substantive data and analysis. If sufficiency and completeness issues were to transpire, the dates would obviously be modified to a later timeframe. Likewise, if the proposed RLSA amendments are found to require additional substantive data and analysis the projected completion date would be moved further into 2011. Conversely, if the proposed RLSA amendments are found to be sufficient and complete prior to the proposed amendments to the IAMP it would practical to move these proposed amendments forward in the amendment process. From a common sense perspective, a special amendment cycle approved by BCC policy directive with an expressed intent of public benefit should not be inordinately delayed as the result of another cycle not found sufficient or complete. If this does occur, staff will propose modifications to the aforementioned schedule.

It should be noted that the Southwest Florida Regional Planning Council (RPC) has proposed a scope of work for the review of the IAMP proposed GMP amendments. (See Exhibit 2). Collier County staff acknowledges the diverse background and qualifications of the RPC staff. However, an initial meeting with the RPC staff indicated that the RPC would be heavily reliant upon Comprehensive Planning Department staff in developing its final work product which defeats the purpose of utilizing RPC staff as in essence the Comprehensive Planning Department would be functioning as a sub-consultant to the RPC. Then the Comprehensive Planning Department would still have to undertake its regulatory obligations to review and propose modifications, additional substantive data and analysis, wherein it would possibly put the RPC and the Comprehensive Planning Department in a compromising position which is not the norm for a consultant/sub-consultant relationship.

This reliance on RPC staff on the surface may appear to advance a policy directive set by the BCC, but the reality is that the learning curve related to the complexity of the County's GMP and IAMP would with almost absolute certainty be detrimental reliance in terms of impact on the Comprehensive Planning Department. It would not be unrealistic for the resultant proposed expedited time frame to be extended due to the uniqueness of the Collier County GMP. This is not a simple amendment proposal which is of the nature of GMP amendment proposals normally undertaken by RPC's for smaller local governments with less intricate GMP structure and thus less complex amendments. The proposed IAMP amendments are a huge undertaking where the

expertise lies within the Comprehensive Planning Department which will complete its sufficiency review in a timely manner.

It should be noted that the Comprehensive Planning Department has an allocated staff of 14 employees. Even though the workload of the Department has continued to increase with state mandates and BCC policy directives, the Department is currently staffed with only 11 employees. Three positions were vacated and remained unfilled as a result of Fund 131 deficiencies which are unrelated to the Department's workload. As a result, existing reviews are now being delayed, long range projects most likely will be delayed, and statutory mandates and BCC policy directive deadlines will be in jeopardy during the next and subsequent fiscal years. At this time an internal Department edict has already been issued prioritizing BCC policy directives and state statutory mandates which has resulted in not meeting consistency review deadlines as the staffing level is inadequate to meet existing project demands. This situation could be further exacerbated during the upcoming budget hearings if staff reductions are proposed for the Department. Regardless, the economies of scale and the effectiveness of the Department have now been compromised where for the first time in the last four years that it can be stated with certainty that projects and deliverables set forth in the County Manager's Strategic Plan and the CDES Business Plan will be delayed.

One other consideration is the inclusion of the RLSA amendments in the EAR based GMP amendment cycle that would transpire a result of the EAR submitted to DCA in January 2011. This consideration does not warrant practical consideration as it would waste the work of the RLSA Committee as the Phase I and II Reports would be incorporated as data and analysis in the EAR and be duplicative of work undertaken. The end result would be amendments submitted to DCA in either late 2013 or early 2014. From a professional and financial perspective this is not even a viable consideration as it would inordinately delay a BCC policy directive which has momentum and is in the final stages moving forward.

RURAL LANDS STEWARDSHIP AREA REVIEW COMMITTEE:

On October 24, 2007, the Board adopted Resolution 2007-305A, creating the Committee as an ad hoc advisory committee to assist in the five-year review of the Rural Lands Stewardship Area Overlay (RLSAO) of the Future Land Use Element of the GMP, as provided for in Policy 1.22 of the RLSAO and the Section 4.08.04 G of the Land Development Code. Resolution 2007-305A provided for a one year "sunset" for the Committee (i.e. October 24, 2008).

On June 10, 2008, the Board approved Resolution No. 2008-163 which extended the term of the Committee members six (6) months to April 24, 2009, based upon the Committee's belief that it would not complete its assignments provided for in Resolution 2007-305A prior to October 24, 2008.

On January 6, 2009, the Committee voted unanimously to recommend to the Board that the term of the Committee be extended an additional twelve (12) months to allow the Committee to advise and make recommendations to the Board during a special GMP amendment cycle requested by the Committee through its letter dated November 24, 2008, which was distributed to the Board. On February 10, 2009, the Board extended the term of the Committee to April 24, 2010 by approval of Resolution 2009-28.

Staff analysis of Resolution 2007-305A indicates that the Committee *has successfully completed* its functions, powers, and duties as provided for in Section Four of Resolution 2007-305A which is recited directly below.

1. Review data concerning the participation and effectiveness in the Overlay meeting the Goal, Objective, and Policies in the Future Land Use Element of the Growth Management Plan. (*“Phase I Report” to the Board on May 26, 2008*)
2. Review the RLSA Overlay and make recommendations to increase the effectiveness of the Overlay. (*“Phase II Report” to the Board on April 21, 2009*)
3. Assist in determining the most effective venues and dates to hold public presentations.
4. Assist in promoting public interest in the review process.

As such, the Board may choose to dissolve the Committee with the understanding that the Committee members and all other “Five-Year Review of the Rural Lands Stewardship Report” participants would be given every opportunity to be kept informed and encouraged to actively participate in this GMP special GMPA Cycle for 2010 related to the RLSA Overlay amendments. Accordingly, a companion Resolution dissolving the Committee has been prepared for separate action by the Board.

STAFF RECOMMENDATION:

Staff recommends that the Board approve with no less than a majority vote, the following:

- Authorization to hold a second special GMPA Cycle for 2010 pertaining to the above-stated subject, adhering to the timeline set forth above under “Growth Management Impact” to the extent possible;
- Authorization of the funding sources as set forth under “Fiscal Impact”; and
- Dissolution of the Rural Lands Stewardship Area Review Committee.

Prepared by: Thomas Greenwood, AICP, Principal Planner, Comprehensive Planning Department