

EXECUTIVE SUMMARY

Recommendation that the Collier County Board of County Commissioners review at a special public meeting the Rural Lands Stewardship Area Review Committee’s revised March, 2009 “Five-Year Review Report of the Rural Lands Stewardship Program”; the Collier County Planning Commission’s comments and recommendations; the Collier County Environmental Advisory Council’s comments and recommendations; the Committee’s request for Board of County Commissioners authorization for a special Growth Management Plan Amendment Cycle solely for the purpose to review and consider certain amendments to the Growth Management Plan Rural Lands Stewardship Area Overlay based on the Committee’s revised Five-Year Report; and staff considerations regarding the Growth Management Plan impact and fiscal impact.

OBJECTIVE: To obtain from the Board of County Commissioners (BCC) the following direction with respect to:

- A. Acceptance of the March, 2009 “Five-Year Review of the Rural Lands Stewardship Program Report” (Report) in its entirety as the Rural Lands Stewardship Area Review Committee’s (Committee) approved Report;
- B. Direction to staff with respect to the Committee’s request for BCC authorization for the holding of a special Growth Management Plan (GMP) amendment cycle related to proposed Rural Lands Stewardship Area Overlay (RLSA Overlay) amendments set forth in the Committee’s Phase II Report, which is a departure from the BCC-adopted policy of limiting GMP amendments to one cycle per calendar year per BCC Resolution 97-431; and
- C. Assignment of priority to this special RLSA/FLUE/GMPA amendment cycle and the recommended creation of RLSA/FLUE/GMP-related new Policy 3.7 of the Transportation Element of the GMP.

CONSIDERATIONS:

January 30, 2004 to present: *Rural Lands Stewardship Program adoption into the Land Development Code (LDC) and favorably recognized in Florida and nationally.* The Rural Lands Stewardship Program in Collier County has been recognized in Florida, regionally, and nationally for visionary methodology to preserve environmentally significant land, to protect agricultural land and to direct growth to suitable locations. Collier County adopted the RLSA Overlay in the Land Development Code (LDC) as Section 4.08.00 on January 30, 2004 as the implementing regulation for the Growth Management Plan amendments known broadly as the “Rural/Eastern Lands Amendments” which were developed in response to Administration Commission Final Order No. AC99-002, which required a “Rural and Agricultural Assessment” and subsequent adoption of the Growth Management Plan amendment based upon that assessment.

October 24, 2007: *BCC establishment of the Rural Lands Stewardship Area Review Committee.* Policy 1.22 of the RLSA Overlay requires a Five-Year Review of the RLSA. Accordingly, the BCC established the ad hoc Rural Lands Stewardship Area Review Committee (Committee) by

Resolution Number 2007-305A on October 24, 2007, and provided the Committee with the following functions, powers and duties:

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.
2. Review the RLSA Overlay and make recommendations to increase the effectiveness of the Overlay.
3. Assist in determining the most effective venues and dates to hold public presentations; and
4. Assist in promoting public interest in the review process."

May 27, 2008: BCC approval of the "Phase I-Technical Report" (#1 of functions, powers, and duties of the Committee). The "Phase I-Technical Report" is a review of data concerning the participation and effectiveness in the Overlay meeting the Goal, Objective, and Policies in the Future Land Use Element of the GMP which is required by Policy 1.22 of the RLSA Overlay. The "Phase I-Technical Report" was presented and responded to by the Collier County Planning Commission (CCPC) and the Environmental Advisory Council (EAC) prior to presentation to the BCC. On May 27, 2008, the "Phase I-Technical Report" of the Committee was brought before the BCC, approved by the BCC, and forwarded to the Department of Community Affairs (DCA) for its records in accordance with the directive contained in Policy 1.22 of the RLSA. To date, Staff is unaware of any official DCA written response to the Phase I-Technical Report although Staff has had verbal confirmation of DCA receipt of this Report.

December 2, 2008: The BCC on December 2, 2008 provided direction to staff to facilitate the review of the Committee's Report before both the CCPC and the EAC. Accordingly, a combined total of eleven (11) public meetings were held (6 CCPC public meetings and 5 EAC public meetings) between January 28 and March 10, 2009 of which a total of 8 were public hearing dates before the CCPC (January 28 & 30, February 5, 20, & 26) and the EAC (January 29, February 5 & 27). During these public hearings the public was encouraged to speak concerning the Report. All meetings of the CCPC and EAC were properly noticed public meetings, recorded with minutes taken, and most meetings were televised.

January, 2009 Original Report: Committee issuance of the original "Five-Year Review of the Rural Lands Stewardship Program" Report. On January 6, 2009 the Committee issued its original 2-volume Report which includes the following:

- a. **Volume 1** of the Report contains the approved "Phase I- Technical Report" (to the BCC on May 27, 2008), as well as the "Phase II-RLSA Overlay" review and recommendations; and
- b. **Volume 2** of the Report contains the major appendices and support documentation which the Committee considered when forming and finalizing its recommendations to the BCC.

Prior to its issuance of the original January, 2009 Report, the Committee held a total of twenty three (23) public meetings between November, 2007 and January 6, 2009 and received and reviewed information provided by experts, heard from representatives of several organizations and individuals and summary minutes and taped recorded documents were developed and maintained for public record. Most of the Committee meetings were held in the Community

Development and Environmental Services building, while several of the meetings were held at both the new Town of Ave Maria and at the North Collier Regional Park. These meetings led to the preparation of the Phase I and Phase II Reports. Most meetings were well attended with audience attendance/participation usually ranging between 15 and 30 persons. All persons were given an opportunity to speak and/or present information.

The primary Committee-recommended enhancements to the Overlay include:

- A. *Provision for Credit incentives to encourage the permanent preservation of agricultural lands; (Policy 2.2 of Section 2 of Volume 1);*
- B. *Restore flowway stewardship areas and habitat stewardship areas through a credit generating system that considers cost, difficulty and benefit value of each restoration type through a newly adopted tiered system (Policy 3.11 of Section 2 of Volume 1);*
- C. *Provision of incentives to create, restore and enhance panther corridor connections to encourage the protection of the Florida Panther in the Overlay area (Policy 3.11, paragraph 2, of Section 2 of Volume 1);*
- D. *Provision of “conditional” Stewardship Sending Areas”(SSAs) in the Overlay which provides a mechanism for property owners to have the ability of better self-controlling the number of permanent Credits that are issued (Policies 1.6 and 1.6.1 of Section 2 of Volume 1);*
- E. *Placement of a limit on the maximum “footprint” of Stewardship Receiving Areas (SRAs) which would limit the maximum SRA “footprint” to 45,000 acres or approximately 23% of the total lands in the Overlay area and recalibrate the credit system to ensure the balance essential to the sustainability of a voluntary incentive based program which generates significant public benefits without incurring public expenditures; (Policies 4.2 and 4.19, respectively of Section 2 of Volume 1);*
- F. *Provision for better transportation planning related to the Overlay area and future SRAs (several Policies in Group 4 Policies); and*
- G. *Provision of proposed new Policy 3.7 of the Transportation Element of the Growth Management Plan (GMP) as a companion policy to Policy 4.5 of the Overlay (page 166 of Volume 1) in cooperation with Collier County in its creation of a plan for a county transportation network that meets the adopted Level of Service through build out of the county and considers the location of public services needed to accommodate the build out population.*

******Committee, CCPC and EAC Reviews of the Original January, 2009 Report******

Attachment A to this Executive Summary contains the March 26, 2009 *Committee responses to the CCPC and EAC comments and recommendations* with respect to recommended amendments to the Overlay. During its meetings held on March 3 and March 12 the Committee voted to accept 19 of the 31 policy recommendations contained in the March 5, 2009 CCPC comments and recommendations document to the BCC. The following are the 19 CCPC recommended policy language changes ***accepted in their entirety by the Committee***: Policies 1.6.1, 2.4, 3.13, 4.5, 4.6, 4.7.1, 4.7.2, 4.7.3, 4.7.4, 4.10, 4.14, 4.15.1, 4.16, 4.20, 4.21, 4.23, 5.1, 5.3, and 5.4. ***These CCPC recommendations are reflected in the revised Committee Report.***

The Committee also voted to provide *alternative revised language for the remaining 12 policies* where the Committee differed with the CCPC recommendations and *these recommendations are also reflected in the Report*. In most cases the differences may be considered to be minor. The Committee believes that the major area of departure between the Committee recommendations and the CCPC recommendations relate to the Committee-recommended amendments to **Policy 4.2** where the Committee has recommended a limit on development of Stewardship Receiving Area (SRA) “footprint” within the Overlay of 45,000 acres. *There currently is not a limit on total SRA “footprint” acres or Credits. If the BCC accepts the Report and authorizes a RLSA GMP amendment cycle, then data and analysis will be heavily scrutinized to determine with absolute certainty the appropriate “footprint” in acres and allowable total acres.* This departure between the Committee and the CCPC is summarized as follows:

- The **CCPC** has recommended to the BCC that there be a cap on the number of Credits at 315,000; and
- The **Committee** believes the best way to control the amount of development in the Overlay area is to cap the total area of the SRA “footprint” at 45,000 acres. The Committee’s rationale for placing a 45,000 acre cap on SRA “footprint” acres (rather than a 315,000 cap on the number of Credits) is as follows:
 1. A SRA “footprint” cap of 45,000 acres would result in a definitive limit of not more than approximately 23% of the RLSA in SRAs and is very close to that which would be possible under the current Overlay language (see page 76 in Section 3 of the Phase 2 Report);
 2. Credits are the “currency” for public good (e.g. preservation of environmentally sensitive lands and agricultural lands) and it seems not appropriate to limit public good by limiting Credits;
 3. Credits can also be purchased by public entities (Policy 1.18) such that a public entity can permanently preserve land for environmental or agricultural purposes without having to acquire the land through a possibly more expensive fee simple purchase, while the land remains in private ownership and maintenance and used for uses permitted under the specific approved Stewardship Sending Area (SSA);
 4. Proposed Policy 1.6.1 would provide for “conditional SSAs” which would allow the property owner to opt out of the SSA and regain underlying permitted base zoning uses as permitted under the A-Rural Agriculture Zoning District;
 5. Conversely, the CCPC recommended limitation on the number of Credits to 315,000 would be a legislative limit and possibly result in unintended negative consequences, as the RLSA Overlay is a voluntary program and market driven; and
 6. This CCPC recommended Credit limitation would also create an inequality among RLSA property owners based upon who can capitalize first in claiming Credits.

Attachment B to this Executive Summary is the complete March 5, 2009 *CCPC comments and recommendations to the BCC* with respect to recommended amendments to the Overlay. Like the Committee, both the CCPC and the EAC chose to review the Overlay Policy by Policy [Section 2 of the Phase 2 Report.....pages 45 through 73]. Accordingly, most of the recommendations and/or comments of the CCPC relate to certain Policies or other language in the RLSA Overlay while the EAC comments and recommendations were more issue-based.

Attachment C to this Executive Summary is the complete March 10, 2009 EAC comments and recommendations to the BCC with respect to recommended amendments to the Overlay.

Attachment D to this Executive Summary is the Committee’s January 5, 2009 request to the BCC to prepare proposed amendment to the RLSA Overlay of the Future Land Use Element of the Growth Management Plan as a “special cycle for Growth Management Plan RLSA Overlay amendments...” following the recommendations contained in the Committee’s Report.

March, 2009 Revised Committee Report (Exhibit 1). The revised Committee Report to the BCC is attached as **Exhibit 1** and includes revisions to the original January, 2009 Committee-issued Report as outlined in **Attachment A** to this Executive Summary.

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: The following are estimated costs related to this GMPA:

- 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; 4.0 days for PC; and 2.0 day for the BCC].....\$12,000
 - c. Cost of minutes for potential administrative hearing: unknown
 - 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: \$91,024
(does not include the costs of administrative hearing)

GROWTH MANAGEMENT IMPACT:

A. RLSA Overlay does not fall under State of Florida RLS Statutes. The Collier County Rural Lands Stewardship program does not fall under the State of Florida RLS Statutes since Collier County approved its RLS program prior to the State law. The Collier RLS Program has been found to be in full compliance with all Florida State Statutes and the Florida Administrative Code.

However, Policy 1.22 of the RLSA Overlay of the Future Land Use Element requires that “*A comprehensive review of the Overlay shall be prepared for and reviewed by Collier County and the DCA upon the five-year anniversary of the adoption of the Stewardship District in to the LDC*”. This comprehensive review was accomplished with the submittal of the Phase 1

Technical Report to the BCC on May 27, 2008 and then to DCA with a May 30, 2008 transmittal letter as required by Policy 1.22. To date, Staff is not aware of any DCA formal written response to the Phase I Technical Report, although Robert Pennock with DCA did verbally acknowledge its receipt.

B. RLSA Overlay and Department of Community Affairs (DCA) Comments and Objection Relative to GMP Amendments

One of DCA's Objections, which was received by Collier County related to DCA's review of the 2006 cycle of GMP amendments, is that the Growth Management Plan (GMP) will need to be amended concurrent with or prior to the proposed RLSA Overlay amendments to align the Plan dates throughout the GMP.

Regarding the RLSA Overlay, at this time there appears to be ***no specific requirement*** in the GMP RLSA Goal, Objective and Policies that any amendments to the RLSA Overlay be made. However, any amendments approved by the BCC during "Transmittal Hearings" would be forwarded to the DCA which would review the proposed amendments for consistency with the Collier County GMP, Florida Statutes, and Florida Administrative Code. Collier County Comprehensive Planning staff has had two substantive conversations with Robert Pennock, DCA staff member with RLSA oversight, wherein Mr. Pennock has emphasized that amendments should be made to the Collier RLSA's Goal, Objective and Policies wherein compliance or consistency with the requisite Goal, Objective and Policies are in question. The DCA is of the opinion that Collier County is failing to meet the intent of the RLSA Overlay Goal which requires Collier County to protect agricultural activities and to prevent premature conversion of agricultural land to non-agricultural activities. The majority of the land in the RLSA Overlay is zoned Agricultural, which would make the conversion of ***agricultural lands to non-agricultural lands inevitable*** under the proviso of creating compact and self-sustaining towns, villages, and hamlets. Regardless, DCA highlighted this perceived shortcoming in the Collier County RLSA in its "Rural Land Stewardship Area Program 2007 Annual Report to the Legislature" dated December 31, 2007. Comprehensive Planning Department staff is of the professional opinion that this assessment by DCA is premature, and an initial comprehensive assessment of the Goal, the Objective, and the Policies in the RLSA Overlay would be more appropriate in the Collier County 2011 Evaluation and Appraisal Report of the GMP in its entirety. Further, staff is of the professional opinion that the RLSA Overlay is a Growth Management planning tool which is in its infancy, wherein the techniques and strategies that will measure the effectiveness of the RLSA Overlay cannot be measured in terms of its success and failures until such time that the RLSA Overlay matures during the current 2025 horizon year.

C. Committee-driven Proposed Amendments to the RLSA Overlay.

The proposed amendments to the RLSA Overlay are Committee-driven. At this time proposed amendments to the RLSA Overlay of the GMP have **not** been substantively reviewed by Staff for sufficiency, completeness, supporting data and analysis, proper "wordsmithing", and consistency with the GMP, Florida Statutes, and Florida Administrative Code. Moreover, the Committee is aware that not all of the data and analysis to support the amendments has been completed. For example, the Transportation Planning Department has not approved the concept transportation maps contained in Section 3 (Support Documentation) of the Phase II

Report which need to be refined and integrated with the “County Build Out Vision Plan” as outlined in the proposed new Policy 3.7 of the Transportation Element of the GMP (see Section 5 on page 166 of the Phase II Report). Therefore, before any comprehensive and final substantive review by the EAC or CCPC during “Transmittal Hearings” occurs, it would be incumbent upon staff to undertake the normal progressive steps associated with GMP amendments. The Committee would like BCC direction to establish a separate RLSA Overlay GMP amendment cycle.

- D. Timing of Proposed Amendments to the RLSA Overlay and Prioritization of County Projects. *On the private side of development, the impact of the economic downturn and its effect on proposed development, building activity and impacts on agriculture warrants a more timely assessment rather than an overly reactive major modification to an RLSA Overlay in its infancy. However, staff is also of the professional opinion that any obvious deficiencies in the RLSA Overlay that can be corrected or modified can be made in any GMP amendment cycle. Conversely, any major changes to the RLSA Overlay in its entirety will require either a separate GMP amendment cycle or an inclusion in a future GMP amendment cycle where major substantive review of proposed changes and supporting data and analysis will be required.*

*Staff is currently operating at only 78% of its staffing capacity as a result of reductions in staff associated with reduced funding in Fund 131. Due to the attached list of projects internal to the Comprehensive Planning Department (**Attachment E**), including the 2007/2008 GMP amendment cycle, proposed amendments to the Immokalee Area Master Plan, upcoming 2009 GMP Cycle amendments, the Annual Update and Inventory Report, and many other projects set forth in **Attachment E**, the Comprehensive Planning Department staff will need BCC direction as to what priority to assign to the Committee-recommended RLSA Overlay GMP amendments. It must be pointed out with strong emphasis that the Comprehensive Planning Department was cut from 14 positions to 12 positions during FY 08 and reduced one other position to 11 positions during FY 09. Reductions in the Comprehensive Planning Department workforce has occurred even though the workload has increased. If priority is given to this project, then the production of other products **will** be delayed as staff resources have been stressed to the point where the Department’s deliverables set forth in the County’s Business Plan cannot be achieved.*

If Senate Bill 360 and a House equivalent are passed by the Legislature and signed into law by the Governor, the proposal to amend the Immokalee Area Master Plan will be delayed. Furthermore, the Florida Legislature is considering legislation that will limit local governments to one GMP Amendment Cycle per calendar year (state law now permits two Cycles per calendar year). More specifically SB 360, which will have its 3rd reading by the Florida Senate during the second week of April, would limit GMP Amendment Cycles to one per calendar year. It should be noted that there is no equivalent companion bill in the Florida House as the House’s Growth Management legislation has not yet been passed into separate proposed Bills.

Finally, all dates for Transmittal Hearings and Adoption Hearings related to the Committee’s request of the BCC for a special Overlay GMP amendment cycle will need to be coordinated

with the EAC, the CCPC, and the BCC, both as to meeting room space availability and availability of hearing bodies for specific dates. The following is the schedule for GMP amendment cycles for those applications already filed or soon to be filed private petitions or County initiated GMP amendments:

- GMP amendment cycle 2007/2008 combined (10 private petitions and 1 public petition):
 - a. EAC Transmittal Hearing: September, 2009 during regular EAC meeting
 - b. EAC Adoption Hearing: June, 2010 during regular EAC meeting
 - c. CCPC Transmittal Hearing: October 19 and 20, 2009 with carryover date of October 29, 2009;
 - d. CCPC Adoption Hearing: July 19 and July 20, 2010 with carryover date of July 23, 2010
 - e. BCC Transmittal Hearing: January 19, 2010 with a carryover date of February 2, 2010.
 - f. BCC Adoption Hearing: September 21 with carryover date of September 23, 2010
- Immokalee Area Master Plan (filed in December, 2008)
 - a. EAC Transmittal Hearing: December 15, 2009
 - b. EAC Adoption Hearing: September 22, 2010
 - c. CCPC Transmittal Hearing: January 29 and February 16, 2010
 - d. CCPC Adoption Hearing: October 28, 2010 with carryover date of October 29, 2010

STAFF RECOMMENDATION: Staff requests that the Board of County Commissioners:

- accept the revised Report (**Exhibit 1, Volumes 1 and 2**) in its entirety as a planning document;
- provide direction and prioritization to staff with respect to the Committee's request for BCC authorization for the holding of a special GMPA cycle, which is a departure from the BCC-adopted policy of limiting GMP amendments to one cycle per calendar year (BCC Resolution 97-431); and
- assignment of priority to this Committee requested amendment cycle (includes the Committee-recommended companion new Transportation Element Policy 3.7) versus the already filed 2007/2008 combined GMP amendment cycle petitions (currently in application sufficiency review), the December, 2008-filed IAMP GMP amendment petition, and the upcoming 2009 GMP amendment cycle petitions due not later than April 24, 2009.

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

Reviewed by: _____ Date: _____
David Weeks, AICP, Manager
Comprehensive Planning Department

Reviewed by: _____ Date: _____
Randy Cohen, AICP, Director
Comprehensive Planning Department

Reviewed by: _____ Date: _____
Heidi Ashton-Cicko, Assistant County Attorney
Land Use Section, Chief

Approved by: _____ Date: _____
Joseph K. Schmitt, Administrator
Community Development and Environmental Services Division

EXHIBITS AND ATTACHMENTS

- Exhibit 1:** Five Year Review of the Rural Lands Stewardship Program [Volumes 1 and 2], March, 2009.
- Attachment A:** Comparison of Rural Lands Stewardship Area Review Committee recommendations regarding improvements to the Rural Lands Stewardship Area Overlay; comments and recommendations provided by the Collier County Planning Commission; and comments and recommendations provided by the Environmental Advisory Council.
- Attachment B:** Comments and recommendations of the Collier County Planning Commission, dated March 5, 2009 regarding CCPC review of the original January, 2009 Committee-recommended amendments to the RLSA Overlay.
- Attachment C:** Comments and recommendations of the Environmental Advisory Council, dated March 10, 2009 and Rural Lands Stewardship Area Review Committee responses dated March 12, 2009 regarding EAC review of the original January, 2009 Committee-recommended amendments to the RLSA Overlay.
- Attachment D:** January 5, 2009 letter from the Committee requesting a special GMP amendment cycle
- Attachment E:** Comprehensive Planning Department Major Projects, 2008-2011