

JUNE 13, 2011

A meeting of the [Board of Lee County Commissioners](#) was held on this date to conduct a Public Hearing for transmittal consideration of proposed 2010/2011 Regular Lee Plan Amendments to the Lee County Comprehensive Plan to the Department of Economic Opportunity and several other newly-identified reviewing agencies, with the following Commissioners present:

Frank B. Mann, Chairman  
 John E. Manning, Vice Chairman  
 A. Brian Bigelow  
 Ray Judah  
 Tammara Hall

ON FILE IN THE MINUTES OFFICE:  
 PROPOSED LEE PLAN AMENDMENTS; STAFF REPORTS, INCLUDING MAPS AND RECOMMENDATIONS FROM THE LOCAL PLANNING AGENCY (LPA)

### **1. Call to order; Certification of Affidavit of Publication**

The Chairman called the meeting to order at 9:31 a.m., and advised of the procedure that would be followed. Chief Assistant County Attorney Donna Marie Collins approved, as to legal form and sufficiency, the [Affidavit of Publication for this Public Hearing](#), and advised that, due to recently enacted legislative amendments, there would no longer be a sign-in sheet for citizens requesting advance notice of intent. Ms. Collins outlined the new review process that is effective immediately, and requires an adoption hearing be scheduled within 180 days from receipt of review comments. Ms. Collins responded to brief Board questions and comments, pointed out that public comment on plan amendments now go to the County Planning Division for compilation, and noted she was preparing an instructive memo on the new process which will be posted on the County website. It was pointed out later, during public comment, that the advertisement had not separated Consent and Administrative items on the agenda.

### **2. Public Comment on Consent Agenda**

The Chairman called for public comment on Consent Agenda items, and the following individual came forward:

6-A and 6-C – [Phil Buchanan](#) representing Greater Pine Island Civic Association

### **3. Consent Agenda Items to be pulled for Discussion by the Board**

Commissioner Hall - none  
 Commissioner Manning – none  
 Commissioner Judah – 6-B  
 Commissioner Bigelow – none  
 Commissioner Mann - none

### **4. Motion on the Balance of Items**

Commissioner Hall moved transmittal of the balance of Consent Agenda items, seconded by Commissioner Manning, called and carried.

### **5. Consideration and Motion on Items Pulled for Discussion**

FOR ACTION TAKEN ON CONSENT AGENDA ITEM 6-B, REFER TO THE APPROPRIATE SECTION OF THE MINUTES

### **6. Consent Agenda:**

**A. [CPA2010-04](#): Villages of Pine Island Sewer Service.** Amend Map 7 of the Lee Plan, the Future Sewer Service Areas Map, to provide sanitary sewer service to an approved multi-family residential development and two commercial properties.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**B. [CPA2010-07](#): Minus Forty Technology Corporation.** Amend the Future Land Use Map Series, Map 1 to change approximately 15.56 acres of land designated Suburban to Industrial Development and Conservation Lands Uplands and Conservation Lands Wetlands.

PULLED FOR DISCUSSION

Following response by Principal Planner Matt Noble to the question of a provision to mandate the bridging or elevation of any future roadway over creeks in this area, Commissioner Judah moved approval to transmit, seconded by Commissioner Manning, called and carried.

**C. CPA2010-08: Southwest Florida International Airport Non-Aviation Development Update.** Amend Lee Plan provisions specific to the development of the Southwest Florida International Airport and Table 5(a) Southwest Florida International Airport Development Schedule to modify the development parameters allowed within the future non-aviation areas at the Southwest Florida International Airport.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**D. CPA2010-12: Conservation Lands Update.** Amend the Future Land Use Map Series, Map 1 by updating the Conservation land use categories.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**E. CPA2010-14: Mixed Use Overlay Update.** Amend Lee Plan Objective 4.3.1 to refer to the Land Development Code Chapter 32: Compact Communities; Adopt Lee Plan Policy 4.2.7 and revise Objective 6.1 to exempt commercial development within the Mixed Use Overlay from the site location standards of Lee Plan Policy 6.1.2 when implementing the provisions of Chapter 32; Amend Lee Plan Map 1, Page 6 the Mixed Use Overlay to match the Lehigh Acres Downtown Specialized Mixed-Use Node.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**F. CPA2010-16: Remove Duplicate Boca Grande Goal.** Remove the duplicate Boca Grande goal from the Lee Plan.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**G. CPA2010-19: Recreation Facilities Standards Update.** Amend Objective 79.1, Objective 82.2, Objective 83.2, Policy 83.2.1, and Policy 95.1.3 concerning the Non-Regulatory Level of Service Standards for boat ramps, water access, and community recreation standards.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**H. CPA2010-21: Beach Renourishment Resource Protection.** Amend Policy 113.3.1 to clarify that beach renourishment sand sources should be identified and protected.

Commissioner Hall moved approval to transmit, seconded by Commissioner Manning, called and carried.

**7. Administrative Agenda, Consideration and Motion for each Item.**

**A. CPA2010-06: Pine Tarr, LLC.** Amend policy 14.1.5 to permit clearing of wetlands in accordance with an approved Environmental Resource Permit for commercial planned development twenty-five acres or larger.

Division of Planning Senior Planner Brandon Dunn reviewed the amendment request, and advised that staff recommends denial due to precedent setting negative impact to the wetlands. Principal Planner Matt Noble responded to questions from Commissioner Judah. Attorney Matt Uhle with Knott, Consoer, Ebelini, Hart, & Swett spoke on behalf of the applicant, and stated the issue in this matter was whether the Board should revise Policy 14.1.5 to add appropriate flexibility. With the use of an overhead projector, photos were displayed and Attorney Uhle requested transmittal with a mandate to continue working with staff and the Civic Association on language specificity. Banks Engineering representative Tom Lehnert provided and addressed two site plans on behalf of the applicant. He addressed issues the applicant would encounter with the current wetlands configuration, and also what incentive a developer might have to clear a wetlands area.

The Chairman call for public comment and the following concerned citizens came forward:

- Greater Pine Island Civic Association representative Phil Buchanan spoke in opposition
- Pine Tarr, L.L.C. employee John Agnelli spoke in support
- Little Pine Island Mitigation Bank representative Dick Anderson spoke in support

Chief Assistant County Attorney Donna Marie Collins responding to the question by Commissioner Manning provided options on the possible deferral of transmittal to the next cycle to allow for more discussion on revision of the current language. Discussion ensued on the larger issue of incentivizing protection of wetlands in any development process. Commissioner Manning moved to transmit with a caveat to scrutinize the language in policy 14.1.5 along with the affected parties, prior to consideration for adoption. Commissioner Hall seconded the motion, and following further discussion, including that the issue of commercial zoning must be reviewed at the adoption hearing, the motion was called and carried.

CHAIRMAN MANN REVIEWED THE PROCESS AND TIME LIMITS IN FAIRNESS TO EACH PUBLIC SPEAKER FOR THE FOLLOWING TWO PLANS THAT WERE HEARD SIMULTANEOUSLY. ACTION TAKEN CAN BE FOUND AT THE END OF PUBLIC COMMENT AND BOARD DISCUSSION.

**B. CPA2010-05: Northeast Lee County and North Olga Community Plan (NOCP).** Adopt the proposed North Olga Community Plan and the Northeast Lee County Planning Community Goal and subsequent provisions in response to community planning efforts.

**C. CPA2010-17: Northeast Lee County and Alva Community Plan.** Amend the Alva Community Plan in response to community planning efforts.

Planning Division Principal Planner Kathy Ebaugh summarized the above two plan applications which she described as connected and the staff recommendation to have one inclusive area, entitled Northeast Lee County, with separate goals, objectives and policies for North Olga and for Alva. Waldrup Engineering Consultant Alexis Crespo, representing the North Olga Community Planning Panel, reviewed the plan and addressed the public input process of the last two years, and actual changes made to the plan as a result of public input. Consultant Jerry Murphy, representing Alva, Inc., indicated they were in substantial agreement with the staff report; and in addition proposed [alternative language to the proposed Policy 34.2.2](#). Discussion ensued on the proposed language with input by Chief Assistant County Attorney Donna Marie Collins and Division of Planning Director Paul O'Connor. Attorney for the North Olga Community Planning Panel, Richard Pringle, addressed the Board on the history and areas of agreement with staff.

The Chairman called for public comment and the following concerned citizens came forward:

President of Alva, Inc. [Ruby Daniels](#) spoke in support of the Alva Community Plan  
 North Olga Community Planning Panel President [Dennis Van Roekel](#) spoke in support of the NOCP  
 West Alva resident [Linda Redfern](#) opposed the NOCP organizational by-laws  
 North Olga resident [Deborah Van Roekel](#) spoke in support of the Alva Plan and NOCP  
 West Alva resident [John Hawkins](#) spoke in opposition to NOCP organizational by-laws  
 North Olga resident [Andy Tilton](#) spoke in support of the Alva Plan and NOCP  
 North Olga resident [Tonya Hampton](#) spoke in support of NOCP  
 North Olga resident [Rob Ogdin](#) spoke in opposition to NOCP organizational by-laws  
 North Olga resident [Adelle Smith](#) spoke in support of NOCP  
 North Olga resident [Dena Rogalsky](#) spoke in opposition to NOCP organizational by-laws; and read letters also in opposition from North Olga residents [Gary & Jennie Hertling](#), and [Denise Houck](#)  
 North Olga resident Keith Cary read a letter from Fire Chief [Lawrence Nisbet](#) in support of the NOCP  
 North Olga resident [Keith Cary](#) spoke in support of NOCP and Alva Plan  
 North Olga resident [Evelyn Smith](#) spoke in opposition to the NOCP organizational by-laws and read letters also in opposition from [Ellen Leifeld](#), [Kathleen Shephard](#), [Betty Warden](#) and [William Hollenback](#)  
 North Olga resident [Robbi Cary](#) spoke in support of the NOCP  
 Bayshore Community resident [Matt Smith](#) spoke in opposition to NOCP organizational by-laws  
 North Olga resident [Perry Prescott](#) spoke in support of the NOCP  
 Fort Myers resident [Richard Maling](#) spoke in opposition to NOCP organizational by-laws  
 North Olga resident [Mike Hipp](#) spoke in support of the NOCP  
 North Olga resident [Frank Musco](#) spoke in opposition to NOCP organizational by-laws  
 Buckingham resident [Manny Flint](#) spoke in support of the NOCP  
 Concerned Citizens of Bayshore Community President [Steven Brodkin](#) spoke in opposition to NOCP organizational by-laws  
 North Olga resident [Nick Armeda](#) spoke in support of the NOCP  
 North Fort Myers resident [Debbie Jackow](#) spoke in opposition to the NOCP and its organizational by-laws, and in support of the Alva Plan  
 Alva resident [Dylan Duncan](#) spoke in support of the NOCP and read a note also in support from North Olga landowner [Mike Greenwell](#)

North Olga resident [Ed Pritchard](#) spoke in opposition to the NOCP organizational by-laws; and read a letter of opposition to the NOCP organizational by-laws from his wife, [Susan Shoemaker](#)

North Olga resident [Suzanne Armeda](#) spoke in support of the NOCP

North Olga resident [Benjamin Lowe](#) spoke in opposition to the NOCP and its organizational by-laws

North Olga landowner [Adrian Povia](#) spoke in support of the NOCP; and read a note also in support from Bill Stansell

North Olga resident [Christina Flint-Lowe](#) spoke in opposition to the NOCP and its organizational by-laws

North Olga landowner [Ricky Flock](#) spoke in support of the NOCP; and read a letter also in support from [Dan Kreinbrink](#)

North Olga landowner [Shawna Flock](#) spoke in support of the NOCP

North Olga resident [Michael Stottlemeyer](#) spoke in opposition to the NOCP and its organizational by-laws

Following a short break, the Chairman called the meeting back to order with all Commissioners present.

Alva resident [Ellen Erickson](#) spoke in support of the Alva Plan and in opposition to the NOCP and its organizational by-laws; and read a letter from North Olga area resident [Melinda Brown](#) expressing opposition to the NOCP and its organizational by-laws while supporting the Alva Plan.

North Olga resident [Jan Fifer](#) spoke in support of the NOCP

Alva resident [Andy Erickson](#) spoke in opposition to the NOCP; and read letters also in opposition to the NOCP organizational by-laws from North Olga residents [Arnie & Liz Geiger](#) and [Walter & Rachel McKee](#)

Attorney [Neysa Borkert](#), with the Pavese Law Firm, representing the English Family Entities, spoke in support of the NOCP while reading certain policy and goal language modifications into the record.

Planner Kathy Ebaugh responded to a question on the proffered comments by Commissioner Bigelow

Secretary of Alva, Inc., [Connie Dennis](#) spoke in support of the Alva Plan and the language suggested by Jerry Murphy; and in opposition to the NOCP by-laws. Ms. Dennis also read three letters from Alva residents [Debra White](#), [Robert Houck](#) and [Pam Lewis](#) in opposition to the NOCP by laws. It was stated that Mr. Houck also supported the Alva Plan.

Alva and North Olga property owner [Bobby Quillen](#) spoke in support of the NOCP

Fort Myers Shores resident and Caloosa Planning Committee member and President of East Lee County Council [Janet Tripp](#) spoke in support of the Alva Plan and in opposition to the NOCP by-laws

North Olga property owner and Planning Panel member [Mary Povia](#) spoke in support of the NOCP

North Olga resident [Theresa Fields](#) spoke in opposition to the NOCP by-laws

North Olga landowner [Joe Flint](#) spoke in support of the NOCP

North Olga resident [Michael Custer](#) spoke in opposition to the NOCP by-laws; and in support of the Alva Plan

North Olga resident [Cheri Mulling](#) spoke in support of the NOCP, and provided two speaker cards from [John Lovelace](#) and [Glenda Lovelace](#) who did not wish to speak, but were in support of the NOCP

North Olga resident [Paul Schmidt](#) spoke in support of the NOCP

Alva resident [Teresa Edwards](#) spoke in support of the NOCP

Deborah Van Roekel spoke on behalf of her son-in-law [John P. Duncan](#), who had to leave, and noted he was in support of the NOCP;

North Olga resident [William Fields](#) spoke in opposition to the NOCP by laws; and referenced letters also in opposition from residents of Duke Highway – [Beth Faried](#), [Samy Faried](#), [Ronald Moniz](#), [Mary Moniz](#), [Gilbert Ospina](#), [Robert Longfellow](#), [Kornelia Eberle](#), [Hubert and Connie Eberle](#), [Todd Feeley](#), [Donald James Moyer, Jr. M.D.](#), and [Tim Weiss](#).

North Olga resident [Tom Mulling III](#) spoke in support of the NOCP

North Olga resident [Tom Mulling Sr.](#) spoke in support of the NOCP

Alva resident [William Redfern](#) addressed Articles of Incorporation of the NOPC noting especially Articles 4 and 7

Commissioners Hall, Bigelow and Manning briefly left the Chambers at various times during public comment. At the request of Chairman Mann, Chief Assistant County Attorney Donna Marie Collins provided legal opinion regarding a request by a speaker for a Commissioner to refrain from voting due to a perceived conflict of interest.

Principal Planners Kathy Ebaugh and Matt Noble and Attorney Collins responded to Board questions on strikethroughs in the Alva Plan, mining issues within DRGR lands, density issues, and membership categories. Commissioner Manning stated his position to transmit both plans, and Commissioner Bigelow commented on his position to deny transmittal of either plan. Attorney Collins advised, at the request of the Chairman, that a separate motion on each plan was required.

**B. CPA2010-05: Northeast Lee County and North Olga Community Plan (NOCP).** Adopt the proposed North Olga Community Plan and the Northeast Lee County Planning Community Goal and subsequent provisions in response to community planning efforts.

Commissioner Manning moved approval to transmit, seconded by Commissioner Hall for discussion. Each Commissioner offered their perspective on the plans and issues to be worked on prior to adoption, and the motion was called and carried with Commissioners Bigelow and Mann voting nay.

**C. CPA2010-17: Northeast Lee County and Alva Community Plan (NACP).** Amend the Alva Community Plan in response to community planning efforts.

Commissioner Manning moved approval to transmit with staff recommended language, seconded by Commissioner Judah. Discussion ensued on follow-up to the mining language, and the motion was called and carried, with Commissioner Bigelow voting nay.

Following a short break, the Chairman called the meeting back to order with all Commissioners present.

**D. CPA2010-15: Captiva Island Community Plan Height Restriction Re-Evaluation.** Amend Policy 13.1.2 to clarify the building and structure height regulations on Captiva Island.

Division of Planning Principal Planner Matt Noble reviewed the amendment request and he and Chief Building and Permitting Officer Bob Stewart responded to Board questions on flood elevation requirements. Mr. Noble indicated staff's commitment to continue to work on revised language with the representative groups between now and adoption. Planner for the Captiva Community Panel Max Forgey, accompanied by its Executive Director Ken Gooderham, outlined support for transmittal as proposed. The Chairman called for public comment and the following persons came forward.

Attorney Matt Uhle, representing the Captiva Civic Association, addressed opposition concerns with height regulations.

Captiva Civic Association Executive Director Paul Garvey spoke in opposition to transmittal

Captiva Civic Association representative Robert Brace spoke in opposition to transmittal

Captiva Civic Association representative Phillip Urion spoke in opposition to transmittal

Mr. Stewart and Chief Assistant County Attorney Donna Marie Collins responded to additional Board questions. Commissioner Manning moved approval to transmit, seconded by Commissioner Hall. Commissioner Judah requested more specifics on the anticipated modifications between now and adoption. Mr. Noble outlined the items that will be the subject of further discussion. The motion was called and carried with Commissioners Mann and Bigelow voting nay.

**E. CPA2010-22: Caloosahatchee Shores Community Plan Clarifications.** Amend Map 1, Special Treatment Areas, Page 2 of 8, Community Planning Areas, to modify the boundary between the Caloosahatchee Shores and Olga Communities. Clarify the appropriate areas for commercial and mixed uses. Clarify the public participation language in Policy 21.6.3.

Division of Planning Principal Planner Matt Noble reviewed the amendment request, and pointed out an error in the last underlined sentence in Objective 21.2: Commercial Land Uses on page 3 of 16. Attorney Neale Montgomery of the Pavese Law Firm, representing the applicant, Strayhorn family, addressed the inconsistencies recommending that a period (.) be placed after the last reference to SR 80 in the underlined portion, and replace the phrase, "that are determined to be appropriate for commercial uses ..." or "any change to commercial has to be through a Planned Development". Mr. Noble suggested the change to read, "if a property requires any re-zoning it must be re-zoned through Planned Development," and Attorney Montgomery agreed. At the suggestion of Chief Assistant County Attorney Donna Marie Collins, the Chairman directed that Attorney Collins, Attorney Montgomery and Mr. Noble work on the specific language revision immediately following this hearing. The Chairman called for public comment and the following individual came forward:

Caloosahatchee Shores Planning council Chairman Ed Kimball spoke in support of the language revision and transmittal

Commissioner Manning moved to transmit with amended language that will be finalized for Objective 21.2 and brought back to the Board, seconded by Commissioner Hall, called and carried.

**8. Announce Intent to Conduct Adoption Hearing in the Fall of 2011**

The Chairman advised that the adoption hearing would be scheduled before the Board of County Commissioners some time in the fall of this year.

The Chairman adjourned the meeting at 3:02 p.m.

ATTEST:  
CHARLIE GREEN, CLERK

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Deputy Clerk

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Chairman, Lee County Commission