

AUGUST 02, 2004

A Workshop Meeting of the Board of Lee County Commissioners sitting as the Board Management and Planning Committee was held this date with the following Commissioners present:

John E. Albion, Chairman
 Douglas R. St. Cerny, Vice-Chairman
 Ray Judah
 Andrew Coy
 Robert P. Janes

The Chairman called the meeting to order at 1:34 p.m.

AT THIS TIME, COUNTY MANAGER DONALD D. STILWELL ANNOUNCED THE HIRING OF A NEW COUNTY EMPLOYEE. SEE THE BOARD COMMENTS/DISCUSSION PORTION OF THE MEETING.

THE CHAIRMAN ANNOUNCED THAT, OUT OF CONSIDERATION FOR THE LARGE NUMBER OF PINE ISLAND RESIDENTS IN ATTENDANCE, AGENDA ITEM NO. 5 WOULD BE HEARD FIRST. SEE THAT PORTION OF THE MEETING.

1. POLICY ON LEGISLATOR OFFICE SPACE

Because Lee County provides office space to several legislators, staff requests that the Board consider a proposed policy to address potential future space requests and reimbursement issues.

OPTIONS:

1. Adopt the proposed or modified policy to provide consistent treatment of space requests.
2. Do not adopt the proposed policy.

RECOMMENDATION:

Staff recommends that the proposed policy or a modified policy be adopted to maintain consistency.

Referring to his memorandum to the Board dated August 2, 2004 (copy is on file in the Minutes Office), County Manager Donald D. Stilwell explained that an inequitable condition existed because the County was charging \$16.75 per square foot (psf) for legislative office space in the Suntrust Building and charging nothing for similar spaces in the Old County Courthouse, and that staff was recommending a nominal fee of \$7.13 psf for Courthouse office space. He added that, because the only remaining Courthouse space was a frequently-used conference room, the suggested policy would encourage future newly-elected legislators to utilize office space at Suntrust. This would allow all state and federal legislators to eventually have offices in the same building, and would allow the current Courthouse space to be recaptured for County employee offices and meeting spaces. After Mr. Stilwell pointed out that the state allows a monthly stipend of \$1,800.00 for legislative office expenses, Public Works Director Jim Lavender stated that the market rate for Suntrust office space is \$21.00-27.00 psf. Mr. Stilwell emphasized that incumbent resident legislators would not be asked to leave their Courthouse offices, but that new incoming legislators would be required to take space at Suntrust. In response to Commissioner Coy's question, Mr. Stilwell explained that, although there was no current demand for space available at the City-County Building in Cape Coral, staff would cooperate fully with anyone who desired such space in the future. He emphasized that the proposed change would take place gradually over a number of years as current legislators leave, stated that a Blue Sheet would be prepared for Board approval, and reported that Assistant County Manager Holly Schwartz had apprised the affected legislators of staff's recommendation.

2. COMMUNITY LAND TRUST FOR AFFORDABLE HOUSING

Review the proposal of the Affordable Housing Committee (AHC) to use the \$1 million, set aside in reserves for affordable housing, to establish a Community Land Trust for affordable housing.

OPTIONS:

1. Approve the concept of the Community Land Trust.
2. Disapprove the concept and direct staff and the AHC to work out another plan.

RECOMMENDATION:

Staff recommends approval of the concept. The Lee Plan's Housing Element calls for the County to work with private and public housing providers to ensure that additional dwelling units are provided to meet the needs of the growing population.

In response to Commissioner Janes' question, Senior Planner Gloria Sajgo confirmed that the program would include rehabilitation along with new construction. There was Board consensus to direct staff to move the request forward on a Blue Sheet.

3. CIVIC CENTER REVIEW

Review of current use of the Civic Center facility, and projected maintenance costs required for future years of operation.

OPTIONS:

1. Continue the partnership with the Fair Board through the existing agreement.
2. Provide no capital maintenance funds.
3. Provide capital maintenance funds through a partial or total loan from the CIP.
4. Raise Civic Center user fees to help offset capital maintenance costs.

RECOMMENDATION:

If the Board policy is to continue operating the Civic Center, then staff recommends continuation of the partnership with the Fair Board, because it provides the most economic operational scenario. Capital maintenance subsidies will be required periodically.

Public Works Director Jim Lavender reported that staff had conducted a study and had determined that the immediate capital projects needed at the Civic Center were the roof and painting of the exterior metal shell on the big building. He added that projects to be accomplished within the next five years included resealing and repaving the parking lot, at a cost of about \$100,000.00; replacement or upgrade of the HVAC system, at a cost of \$750,000.00; upgrade of the electrical distribution system, at a cost of \$260,000.00; and various Americans with Disabilities Act (ADA) upgrades, at a cost of \$250,000.00. He noted that Attachment A in the backup material, regarding usage in 2003, was provided by the Fair Board, whose members were present to answer questions if needed; and reported that, not including the Southwest Florida Fair, there were 282 event days with a total attendance of approximately 185,000 people. In response to Commissioner Albion's questions, Mr. Lavender stated that total gross income from parking was \$111,130.00, with a net income of \$109,387.00 in the period from July 1, 2003 through June 30, 2004; and that the estimated cost for roof replacement was \$750,000.00. Commissioner Albion suggested that an additional \$1.00 or \$2.00 in parking fees, even for the Fair, could generate enough income to pay for the roof and possibly for some of the other projects; and that it would be a user fee for those who benefited from the facility instead of a County-wide expense. Southwest Florida Fair and Lee Civic Center General Manager Alta Mosley reported that the Fair Board had not increased any fees since 1996, that they had reviewed all charges and contacted other similar venues, and that they would soon have an idea of what changes should be made. She explained that the collection of parking fees for the Fair had caused considerable backing up of traffic on SR78, that the parking fee had been replaced with an extra \$1.00 on the ticket price to relieve traffic problems, and that any potential increase in charges must be balanced against the benefit received by the public and by the tenants. Ms. Mosley emphasized that the Fair Board has paid for all the improvements over the past few years, and that the addition of the campground has generated additional revenue for the surrounding community as well as for the Civic Center. Commissioner Albion suggested that any additional charge could be considered as a fee payable to the County, and opined that all taxpayers should not be asked to pay for a facility that is not used by all. Commissioner Judah asserted that the Civic Center is a community facility, which could be available, after improvements, as a staging area for hurricane recovery operations; and suggested that the County should cover the costs of those improvements, especially since the Fair Board had taken over and made a success out of what had been a "white elephant" for the County. Commissioner St. Cerny observed that, prior to the lease with the Fair Board, the County had subsidized the Civic Center with approximately \$500,000.00 per year in net operating losses; pointed out that the facility was still a County asset available for other purposes; and recommended that the roof repairs be started as soon as possible, along with long-term negotiations regarding revenue concerns. Commissioner Albion remarked that, as projects are completed, a reserve fund should be established to ensure future stability. In response to Commissioner Coy's questions, Parks and Recreation Director John Yarbrough stated that the Fair Board has been responsible for Civic Center operations since 1996; and that the County has not spent a penny for operating costs during that time. Commissioner Coy opined that the Board should approve the roof project with the understanding that the Fair Board would not come back for more funds unless there was a big problem. Following additional Board discussion about potential means of funding and planning for the other projects, Commissioner Judah commended the Fair Board for their hard work. There was Board consensus that Mr. Lavender and Mr.

Yarbrough should work with the Fair Board to develop a comprehensive plan and budget, and a revised agreement, to bring before the Board for approval.

4. **CONSIDER SHORTENING THE CONSERVATION 2020 REVIEW PROCESS**

Consider a reduction in the overall review process of the Conservation 2020 Program by 4-6 weeks by requiring properties, selected by the Conservation Lands Acquisition and Stewardship Advisory Committee (CLASAC) to be pursued for acquisition, to come before the Board only once instead of twice.

OPTIONS:

1. No longer require staff to bring a request to the Board to commence acquisition activities for a CLASAC selected property; and allow staff to notify the Board by memorandum as to the selection, to allow the Board an opportunity to comment on any potential concerns.
2. Leave the process as is.

RECOMMENDATION:

Staff recommends Option 1. The County is in a very competitive marketplace, and any delays in getting to the "closing table" may equate to the loss of valuable environmentally sensitive properties.

County Lands Director Karen L. Forsyth explained that, due to complaints that the 2020 process was too long, staff and CLASAC members had discussed possible changes to help the process move faster; that it was necessary to keep up with a very active market; and that fewer nominations were being received than in previous years. She clarified that, in lieu of an initial formal presentation to the Board of CLASAC's recommendations to pursue properties for acquisition, staff would send the individual Commissioners a memorandum with synopses of the properties; and that the Board would not collectively consider a property until an agreement had been reached with the seller. After Ms. Forsyth indicated that the change would cut 4-6 weeks from the process, Commissioner Albion commented that he could not recall the Board ever rejecting a property at the first presentation. Commissioner St. Cerny requested that additional information, such as the nominator, negotiating parties, and price parameters, be included in the memorandum; and Ms. Forsyth indicated that a sheet would be prepared to include all salient data. Commissioner Albion suggested that, when a CLASAC member votes against a specific acquisition, the Commissioner who appointed that member should be advised; and Commissioner Coy emphasized that all activities and information connected to Conservation 2020 purchases must be open and public. Ms. Forsyth pointed out that statutes require that an affidavit of beneficial interest, which lists all parties with title interest in the parcel, must be obtained when a purchase agreement is entered into. Commissioner Albion requested that the data sheet include the CLASAC voting results on the parcel, and that information be made available to the public on the 2020 webpage. Commissioner Judah commented on the Board's confidence in Ms. Forsyth and staff to carry out the program and on the attempt to adjust to market conditions to keep the program successful.

5. **PINE ISLAND CONCURRENCY ISSUE**

Review the Greater Pine Island concurrency management requirement, and discuss whether that requirement is to be enforced when the DOT Traffic Count Report (TCR) is completed or when the County's Concurrency Management Report (CMR) is adopted by the Board.

OPTIONS:

1. Update the 2004 Concurrency Management Report in November (status quo).
2. Update the 2004 Concurrency Management Report as soon as possible.
3. Update only the transportation section of the 2004 Concurrency Management Report as soon as possible.

RECOMMENDATION:

Staff recommends Option 2.

Community Development Director Mary Gibbs described the special concurrency requirement for Pine Island, which is included in both the Land Development Code (LDC) and the Comprehensive Plan; and mentioned that, in the past, the requirement has been enforced in November or December, when the Board adopts the County's CMR, rather than in February when the TCR is completed. She explained that data from the TCR was converted to traffic peak-hour

characteristics and combined with building permit information to obtain data needed for the CMR; and that the question as to whether to enforce the requirement before November has arisen because the current count appears to be very close to the 910 threshold that would trigger restrictions on residential development orders. After clarifying the reasons for staff's recommendation of Option 2, Ms. Gibbs commented on the question of whether the policy was intended to completely stop or merely restrict residential development when the threshold was reached. She added that the CMR could be complete in mid-September, that it would take just as much time to complete only the transportation section, and that doing the reports in segments could be confusing. In response to Commissioner Janes' questions, Ms. Gibbs explained that the rule would not permit a development order to be granted without restrictions to prevent the development from adding to the traffic levels; mentioned the misunderstanding of some that the rule set the traffic level at no more than 910 trips; and clarified that a single-lot owner could meet certain conditions, under the minimum use provision, that would allow building on the lot. She replied to Commissioner Judah's inquiry by describing the process used to convert the data from the TCR for use in the CMR, and by noting that preliminary data indicated a level between 900 and 920. Referring to his memorandum dated July 30, 2004 (contained in the backup material for this item), Assistant County Attorney Timothy Jones explained that the Comprehensive Plan and LDC specified that concurrency rules would be applied based on the CMR formally adopted by the Board; that *Smith v. Clearwater* would apply only to new legislation; and that the pending Comprehensive Plan litigation would have no effect on the current issue. Ms. Gibbs commented that the new plan for Pine Island currently in litigation contained a different concurrency rule that could be the long-term solution. In response to Commissioner Coy's question, Attorney Jones explained that the 910 level represented 90% of the available service capacity of 1,130 trips for that segment of Pine Island Road; that it was intended as a warning that the road was approaching maximum allowable capacity; and that the rule required the County to do something to prevent exceeding the maximum capacity. Extensive Board discussion ensued regarding the calculations necessary to determine the traffic level; the Comprehensive Plan language that calls for adoption of regulations to implement some provisions; the probability that none of the one large and three smaller pending development applications would be sufficient for approval prior to adoption of the CMR; the absence of any legal provision to allow review by the Board of any new applications; the applicability of current CMR data for review of current applications; the time required and the criteria for adoption of an ordinance to establish a development moratorium; the intent of the 1989 regulations; and the mandated use, for this specific road segment, of methodology from the 1985 edition of the national Highway Capacity Manual, instead of the 2000 edition used for the rest of the County. Throughout the discussion, Ms. Gibbs, Attorney Jones, and DOT Deputy Director David Loveland provided additional information and answered the Commissioners' questions. In response to Commissioner Coy's inquiry, Ms. Gibbs, Attorney Jones, and Deputy County Attorney Robert W. Gray confirmed that they supported staff's recommendation to submit the CMR as quickly as possible for Board approval. Commissioner Albion opined that there would be no benefit from adoption of a moratorium ordinance, which would require a minimum of thirty days to enact and which might create more problems than it would resolve. Commissioner Judah and Attorney Gray discussed their differing interpretations of the language in Comprehensive Plan Policy 14.2.2, regarding implementation of restrictions on residential development orders. Brief general discussion occurred regarding the Board's options after adoption of the CMR, the advantages of fast-tracking the CMR instead of a moratorium ordinance, whether formal Board action at a regular meeting would be required to direct staff to facilitate completion of the CMR, and whether public input on the issue would be possible. There was Board consensus to direct staff to pursue Option 2; and that Commissioner Judah could, if he desired, bring the issue up as a Commissioner Item at the Regular Meeting on Tuesday, August 3. In response to Commissioner Janes' question, Ms. Gibbs explained that the 2000 edition of the Highway Capacity Manual could not be utilized for this road segment without a formal amendment to the Comprehensive Plan.

BOARD COMMENTS/DISCUSSION

IMMEDIATELY FOLLOWING THE CALL TO ORDER:

NEW COUNTY HUMAN RESOURCES DIRECTOR HIRED - County Manager Donald D. Stilwell announced that Aurora, Colorado resident Dinah Lewis had accepted the position of Lee County Human Resources Director. After describing Ms. Lewis' impressive credentials, Mr. Stilwell stated that she planned to begin her employment with the County on September 1, 2004.

The Chairman adjourned the meeting at 3:05 p.m.

ATTEST:
CHARLIE GREEN, CLERK

Deputy Clerk

[Chairman, Lee County Commission](#)