

**CPA2007-49**  
**BUCKINGHAM COMMUNITY PLAN**  
**BoCC SPONSORED**  
**AMENDMENT**  
**TO THE**

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LEE COUNTY COMPREHENSIVE PLAN

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**THE LEE PLAN**

**Lee County Board of County Commissioners**  
**Sponsored Amendment and Staff Analysis**

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LPA Public Hearing Document  
for the  
June 3, 2009 Public Hearing

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*Lee County Planning Division*  
*1500 Monroe Street*  
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**May 20, 2009**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2007-49**

**Text Amendment**

**Map Amendment**

<input checked="" type="checkbox"/>	<b>This Document Contains the Following Reviews:</b>
<input checked="" type="checkbox"/>	<b>Staff Review</b>
	<b>Local Planning Agency Review and Recommendation</b>
	<b>Board of County Commissioners Hearing for Transmittal</b>
	<b>Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report</b>
	<b>Board of County Commissioners Hearing for Adoption</b>

STAFF REPORT PREPARATION DATE: May 20, 2009

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. SPONSOR/APPLICANT:**

**a. SPONSOR:**

LEE COUNTY BOARD OF COUNTY COMMISSIONERS  
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

**b. APPLICANT**

BUCKINGHAM COMMUNITY PLANNING PANEL

**2. REQUEST:**

Amend the Future Land Use Element of the Lee Plan to incorporate the recommendations of the Buckingham Community Planning effort. Establish a revised Goal, and new and revised Objectives, and Policies specific to the Buckingham community. Update Table 1 (b), Year 2030 Allocations.

## STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

**1. RECOMMENDATION:** Staff's recommended language for transmittal is shown below. Language that is not underlined is currently in the Lee Plan. Language that is underlined is proposed new language for Goal 17, Buckingham. Language shown in strike through in this part of the report is language that is currently in the Lee Plan that staff is recommending to be removed.

Staff also recommends transmittal of the Year 2030 Allocation amendment described in Part II of this report.

**GOAL 17: BUCKINGHAM.** To manage the future growth in the Buckingham area; to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham Community. For the purposes of this plan, the precise boundaries of the Buckingham area are indicated on the Future Land Use Map Series, Map 1, Page 2 of 6, Special Treatment Areas. (Amended by Ordinance No. 91-19, Amended by Ordinance No. 93-25, 94-30)

**OBJECTIVE 17.1: LAND USE.** The primary land use designation for the Buckingham area is "Rural Community Preserve." Other land use designations exist within Buckingham, such as Public Facilities, Rural, Sub-Outlying Suburban, Conservation Lands, and Wetlands. Public facilities have also been designated as appropriate. ~~After the adoption of this amendment n~~No land in Buckingham will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless a finding of overriding public necessity is determined by three members of the Board of County Commissioners. (Amended by Ordinance No. 00-22)

**POLICY 17.1.1:** No property within Buckingham will be rezoned to RVPD. (Amended by Ordinance No. 00-22)

**POLICY 17.1.2:** The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham area. With the exception of uses identified in this policy, N~~no~~ new commercial activities development will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. In no way may this policy be construed to prohibit commercial uses allowed in agricultural zoning districts. Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if appropriate zoning approval is granted. (Amended by Ordinance No. 94-30, 98-09, 00-22)

**POLICY 17.1.3:** Except for those clustered areas approved in accordance with Policy 17.1.5, ~~A~~any lot created in the Rural Community Preserve after the adoption of this amendment land use category must have a minimum area of 43,560 square feet. ~~Any residential planned development zoning granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot.~~ (Amended by Ordinance No. 00-22)

**POLICY 17.1.4:** New residential lots created in the Buckingham Rural Community Preserve with agricultural zoning must contain at least one Buildable Acre. The area of a Buildable Acre will exclude any road right of way or easement areas, water management areas, and natural water bodies.

**POLICY 17.1.5:** Clustering of residential development in the Rural Community Preserve requires residential planned development (RPD) zoning. Density in clustered developments will be based on upland acreage. Dwelling units must be located away from the property boundaries. Clustering of residential development is limited in the following fashion:

- 1) Buildings must be setback 100 feet from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

**POLICY 17.1.6:** When possible, residential development adjacent to the Rural Community Preserve boundary should make appropriate transitions to the community with a graduated increase in density as development moves away from the Rural Community Preserve boundaries.

**POLICY 17.1.7:** To preserve the shoreline, all new buildings must be setback 50 feet from the top of bank of the Orange River.

**OBJECTIVE 17.2: TRANSPORTATION AND ROADS.** To protect the rural character of the Buckingham area, the following restrictions apply:

1. The existing publicly maintained Lockett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Lockett Road, such as to provide Lehigh Acres with access to I-75 at the Lockett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the Buckingham Rural Community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham area.
2. The extension of State Route 31 south of the Orange River is prohibited.
3. The extension of Ellis Road is prohibited.
4. The extension of Staley Road to State Route 82 is prohibited.
5. No new east/west collector roadways will be planned or built within the Buckingham Rural Community Preserve.
6. All future rights-of-way in Buckingham will be no greater than 100 feet (except for Buckingham Road and Lockett Road extensions).

7. The extension and connection of Long Road to Ellis rRoad is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

**POLICY 17.2.1:** The Lee County Department of Transportation will work with the Buckingham Community to identify issues, propose options, and develop a plan directed at improving safety on roads, limiting the negative effects of traffic, and improving the overall functionality of roads within the Buckingham Community.

**OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES.** ~~In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) To protect the rural character of the Buckingham community, public facilities and utilities will be designed to maintain or enhance the overall community character of Buckingham.~~

**POLICY 17.3.1:** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham community, except in the areas identified by Lee Plan Map 7 as Future Sanitary Sewer Service Areas, as well as the existing Resource Recovery Facility, the adjacent Lee County Parks and Recreation Facility, and any future public facility.

**POLICY 17.3.2:** Central water lines may be extended along roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. The County may also extend central water lines through the area, if necessary. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Rural Community Preserve.

**POLICY 17.3.4:** All new large developments as defined in chapter 10 of the Land Development Code, for which a local development order is required, must install utilities underground. Utilities include, but are not limited to, electricity, telephone, and cable lines.

**POLICY 17.3.9:** East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding, manage flows down the Orange River, and improve water quality. In addition, ECWCD is encouraged to work with the Lee County Emergency Operations Center to develop a system to warn residents in advance of large releases of water.

**OBJECTIVE 17.4: LANDSCAPING, BUFFERING, COMMUNITY AESTHETICS, AND QUALITY OF LIFE.** As a means for protecting and enhancing the Buckingham Community's historic rural character and environmental values, developments, utilities, public services, road,

and land use changes or improvements will provide appropriate landscaping, buffering, and community aesthetics to ensure that a rural lifestyle is preserved.

**POLICY 17.4.1:** Utility infrastructure facilities are required to establish and maintain an appropriate vegetative buffer using native materials. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the Rural Community Preserve. This is to include, electrical facilities, substations, resource recovery facilities, and telephone facilities. Utility companies should install and maintain buffers that obscure unsightly facilities.

**POLICY 17.4.3:** Within the Buckingham community, residential walls are prohibited as boundaries for housing subdivisions or large residential developments. Berms are allowed in accordance with the Lee County Land Development Code, but should be designed to be undulating.

**POLICY 17.4.4:** Residential and commercial lighting should be designed to reduce light pollution and light trespass in the Buckingham community.

**OBJECTIVE 17.5: ENVIRONMENT, OPEN SPACE AND PARKS.** The Buckingham community values its rural environment and has a goal of protecting open space for the present and future generations.

**POLICY 17.5.1:** Lee County will work with the Buckingham community to develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham community.

**POLICY 17.5.3:** The removal of invasive exotic plants, as defined by the state or county, is encouraged within the Rural Community Preserve.

## **2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

- The Buckingham Community Plan update has been sponsored and financed as a community service by the Board of County Commissioners.
- The Buckingham community held a series of public meetings to collect information and to determine the community vision for the future of the Buckingham area.
- Two surveys were conducted by the planning panel's consultant to collect additional information from the community.
- The planning panel's consultant interviewed stakeholders in the community and in adjacent areas.
- The Buckingham community has expressed a clear desire to retain their rural character.
- The Buckingham Community Planning Panel submitted the Buckingham Community Plan and proposed plan amendment on September 26, 2007.

- Staff presented the proposed Buckingham plan amendment to the Local Planning Agency on November 19, 2007 and the LPA recommended that the Board transmit the plan amendment as submitted by the planning panel with changes proposed by the LPA and not as staff recommended.
- Staff presented the proposed plan amendment to the Board of County Commissioners at their October 22, 2008 transmittal hearing. Staff explained they had several concerns over the proposed language and the Board voted unanimously to not transmit CPA2007-49 and directed staff to work with the community to resolve the issues and to bring a revised amendment back in the 2008/2009 amendment cycle.
- Staff attended two community meetings in Buckingham to explain their concerns and to try and arrive at an acceptable plan amendment. The first on December 11, 2008 and the second on February 19, 2009.
- Revised amendment language was sent to staff on March 10, 2009 with very few changes to the language that was sent to the Board on October 22, 2008. Most of staff's comments were not addressed.
- CPA 2007-49 was presented to the LPA on April 27, 2009. The LPA made a motion to continue the Buckingham amendment to the June 3, 2009 LPA meeting with the direction for the community and staff to work together to revise the amendment.
- Staff contacted the Buckingham Community Planning Panel president on several occasions requesting a meeting with the planning panel to revise the amendment.
- Staff was informed by the Buckingham Community Planning Panel president that the panel members had not suggested any revisions and since neither the planning panel or staff propose revised language that it did not appear that a community meeting would be productive.

### **C. BACKGROUND INFORMATION**

The Buckingham Preservation Committee submitted the original Sector Plan for the Buckingham community to the County on September 20, 1990. The sector plan provided a description of the history of the area, a description of the then existing land uses, soils, and ground water recharge, vegetation and wildlife, parks and recreation, community facilities and services, housing and transportation. The original Lee Plan Goal specific to the Buckingham community was a direct result of the work conducted by the Buckingham Preservation Committee and was adopted by the Board of County Commissioners on July 9, 1991.

The Buckingham Preservation Committee, working with County staff, updated the Lee Plan Goal specific to the Buckingham community in the late 1990's and an amendment to that Goal was adopted by the Board of County Commissioners on November 22, 1999. A second amendment to the Buckingham Goal was adopted by the Board of County Commissioners on October 23, 2003.

Early in 2007, residents in the Buckingham community formed the Buckingham Community Planning Panel, Inc. (BCPP) and requested funding from the County to undertake a more comprehensive update to what is now Goal 17 of the Lee Plan specific to the Buckingham community. The County provided \$50,000 to fund the planning effort and the BCPP hired Johnson Engineering, Inc. to assist them in writing an updated Community Plan and Lee Plan amendment. The Community Plan and plan amendment were completed in late summer of 2008 and submitted to the County on September 26, 2008.

Staff prepared the staff report and recommended several changes to the applicant's language. Comments were provided to the planning panel and their consultant. The report was sent to the Local Planning Agency and the Buckingham Community Plan amendment was heard by the LPA on November 19, 2007. Staff gave a presentation and explained the reason for their recommended changes. The LPA did not recommend that the Board transmit any of staff's recommended changes and recommended transmittal of the language submitted by the planning panel with some additional changes recommended by the LPA.

The Buckingham Community Plan amendment was heard by the Board of County Commissioners at the October 22, 2008 Transmittal Hearing. The Board did not transmit the amendment and directed staff to meet with the community and try and arrive at language agreeable to both the community and staff and to bring the amendment back in the next round.

Staff met with the Buckingham planning panel and community members on December 11, 2008 and February 19, 2009 and explained staff's position on the items in contention. Following the February 19, 2009 meeting the planning panel voted on whether to make any changes to their original language. The planning panel made very few changes and did not make any changes to most of the Objectives and Policies that concerned staff. The applicant's last submittal is attached as Exhibit A.

Staff presented CPA 2007-49 to the Local Planning Agency on April 27, 2009 and the LPA passed a motion to continue the amendment to the June 3, 2009 LPA meeting and gave direction for the community and staff to work together to revise the amendment.

Staff contacted the Buckingham Community Planning Panel president on several occasions attempting to set up a meeting with the planning panel and was informed by the planning panel president that the panel members had not suggested any revisions and since neither the planning panel or staff propose revised language that it did not appear that a community meeting would be productive.



**PART II - STAFF DISCUSSION  
AND  
RECOMMENDED REVISIONS**

**A. STAFF DISCUSSION**

**BUCKINGHAM YEAR 2030 ALLOCATION AMENDMENT:**

During the implementation of the Evaluation and Appraisal Report in 2006 and 2007, the Board of County Commissioners decided not to increase any of the residential or commercial acreage allocations in Lee Plan Table 1(b), Year 2030 Allocation, in the Buckingham area. At that time the Board asked that the issue be addressed in the ongoing Buckingham Community Planning process. The Buckingham Community Planning Panel did not address the acreage allocation issue. Staff recommended that the allocations contained in the EAR amendment for Table 1(b), accounting for an additional 10 years of growth in the Buckingham Planning Community, be included.

On April 28, 2008 staff presented the LPA with a memo dated April 21, 2008 and maps of residential uses within the Urban Community portion of the Buckingham Planning Community that are attached to this report. Staff's recommendation included increasing the urban Community allocation from 51 acres to 150 acres; increasing the Outlying Suburban allocation from 49 acres to 66 acres; increasing the Rural allocation from 57 acres to 100 acres; and increasing the Rural Community preserve allocation from 3,046 acres to 3,100 acres.

Staff distributed a document to the LPA with some revised numbers for the allocation and reviewed the handout and the basis of the allocations with the LPA and public. At a minimum, staff recommended transmittal of the Urban Community allocation.

A motion was made to recommend that the Board of County Commissioners make the changes to the allocation tables that are set forth in the April 21<sup>st</sup>, 2008 memo from staff to the LPA. That motion failed 4-2. According to Administrative Code 13-6 that was a recommendation to not transmit the staff recommended changes to Table 1(b).

The Buckingham Community Plan amendment was heard by the Board of County Commissioners at the October 22, 2008 Transmittal Hearing. The Board did not transmit the amendment and directed staff to meet with the community and try and arrive at language agreeable to both the community and staff and to bring the amendment back in the next round.

The following revised Goal for Buckingham is intended to express the community's desire to protect and maintain the existing character of the Buckingham community. This revised Goal, and new and revised Objectives, and Policies are shown as submitted by the applicant; and, if revised by staff, the revisions are shown in **bold**. The recommended revisions to the language submitted by the Buckingham Community Planning Panel are based on comments received from Planning, Environmental Sciences, Utilities, Solid Waste, Public Works, Human Services, and the County Attorney's office. Staff's comments are shown in *italic* below the Goal, Objectives, and Policies.

**GOAL 17: BUCKINGHAM.** To manage the future growth in the Buckingham area; to preserve the existing agricultural land use pattern; to diversify the choice of housing for Lee County by maintaining and enhancing the historic rural character; and to protect the unique historical and environmental values of the Buckingham community. ~~The boundaries of the Buckingham community shall be extended to the Buckingham Planning Community Boundaries.~~ For the purposes of this plan, the precise boundaries of the Buckingham area are indicated on the Future Land Use Map **Series, Map 1, Page 2 of 6, Special Treatment Areas.** Lee Plan Map 16, as amended August 13, 2007 ( Adopted by Ordinance No. 98-09; amended by Ordinance No. 02-02, 07-09, 07-13).

*The Buckingham community desires to expand the boundaries of the planning area to match the Buckingham Planning Community. The community's proposed text seems to make the whole Buckingham area subject to the Rural Community Preserve--this has Bert Harris implications. Staff does not recommend expanding the planning area to match the Buckingham Planning Community.*

**OBJECTIVE 17.1: LAND USE.** The primary land use designation for the Buckingham area is "Rural Community Preserve." Other smaller land use designations exist within Buckingham the boundaries, such as Public Facilities, **Rural, Urban Community, Sub-Outlying Suburban, Conservation Lands, and Wetlands.** Existing Public facilities have also been designated as appropriate. ~~After the adoption of this amendment, n~~No land in Buckingham will be changed to a land use category more intense than Rural Community Preserve (including Public Facilities) unless property is within a pre-existing higher density or a finding of overriding public necessity is determined by three members of the Board of County Commissioners. (Amended by Ordinance No. 00-22)

*Staff has no objection to Objective 17.1 as amended.*

**POLICY 17.1.1:** No property within Buckingham will be rezoned to RVPD. (Amended by Ordinance No. 00-22)

*There is a potential Burt J. Harris liability for areas outside of the Rural Community Preserve that are proposed to be added to the planning area because an existing potential to rezone those areas to RVPD is being taken away. Staff's recommendation to keep the Buckingham area as currently depicted eliminates this concern.*

**POLICY 17.1.2:** The southeast and northeast quadrants of the intersection of Orange River Boulevard and Buckingham Road is designated as the commercial node for the Buckingham area. **With the exception of uses identified in this policy, n**o new commercial activities development (as defined by F.S. 380.04) will be located outside of this commercial node. All new commercial developments in the node are required to provide a minimum of 30% open space. This **Rural Community Preserve** commercial node is described as those lands 300 feet eastward from the easterly right-of-way of Buckingham Road and lying between Cemetery Road and a point 300 feet north of the intersection of Buckingham Road and Orange River Boulevard. In no way ~~should~~ may this policy be construed to prohibit the designation of or commercial uses allowed in agricultural zoning districts. Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if appropriate zoning approval is granted. the operation does not create a use, road access, or drainage nuisance to its neighbors.

*The recommended changes to the Policy are intended to make it clear that this Policy only applies to the Rural Community Preserve and that commercial uses that are allowed in agricultural zoning districts will not be affected. Also, Boarding stables throughout the Rural Community Preserve will be allowed to give lessons and clinics if the operation does not create a use, road access, or drainage nuisance to its neighbors.*

*The reference to the definition of development in F.S. 380 is already in the Glossary of the Lee Plan.*

**POLICY 17.1.3:** ~~Except for those clustered areas as approved in accordance with by Policy 17.1.5, Any lot created in the Rural Community Preserve land use category after the adoption of this amendment must have a minimum area of 43,560 square feet. Existing lots are excluded. Any residential planned development zoning granted in the Rural Community Preserve land use category will require a minimum size of one acre (43,560 square feet) for every residential lot. (Amended by Ordinance No. 00-22)~~

*Although the phrase after the adoption of this amendment is currently in the Lee Plan in Policy 17.1.3, it is not necessary and staff recommends deleting that phrase. It is understood that existing lots are not affected by Policy 17.1.3 so the reference to existing lots is not necessary.*

**POLICY 17.1.4:** ~~Density within the Rural Community Preserve will be no more than one unit per buildable acre. A buildable acre will not include more than 20% wetlands and will exclude road right of ways, water management areas, or natural water bodies. Bonus density is prohibited within the Rural Community Preserve. The community strongly recommends density of no more than one unit per acre throughout the remainder of the Buckingham Community and bonus density to be disallowed. New residential lots created in the Buckingham Rural Community Preserve with agricultural zoning must contain at least one Buildable Acre. The area of a Buildable Acre will exclude any road right of way or easement areas, water management areas, and natural water bodies.~~

*Bonus Density is not allowed in the Rural Community Preserve; restating that adds nothing to the Lee Plan. The last sentence of proposed Policy 17.1.4 shown in strike-through affects one approximately 95 acre tract of land that is located in the Urban Community Future Land Use category outside of the Rural Community Preserve, but within the Buckingham Planning Community. Because this plan amendment proposes to extend the boundaries of the planning area to match the Planning Community Boundaries, that 95 acre tract of land will be affected by this policy.*

*The Urban Community Future Land Use category allows a range of 1 to 6 dwelling units per acre and up to 10 dwelling units per acre with Bonus Density. The last sentence of Policy 17.1.4 shown in stike-through has Bert J. Harris implications and staff does not recommend transmitting that sentence. If the community does not want density of over one dwelling unit per acre on that site the proper way to express that is through a Future Land Use Map change.*

*Staff recommends transmitting Policy 17.1.4 as revised above, keeping the Buckingham area as currently depicted.*

**POLICY 17.1.5:** Clustering of residential development ~~is allowed~~ in the **Buckingham Rural Community Preserve** ~~only with~~ requires residential planned development (RPD) zoning. ~~In no case will clustered developments exceed the overall density of 1 unit per buildable acre.~~ Density in clustered developments will be based on **buildable upland acreage**, and **Dwelling units must be moved located** away from the property boundaries. ~~No additional commercial space will be granted, regardless of clustered development.~~ Clustering of residential development is **achieved by limiting the areas of property available for residential homesites limited** in the following fashion:

- 1) **Homesites Buildings** must be ~~no less than~~ **setback** 100 feet away from the RPD boundary.
- 2) The RPD must have a minimum of 10 acres in order to cluster homesites.

*This policy also affects one approximately 95 acre tract of land and has Bert J. Harris implications as submitted. Policy 17.1.2 restricts commercial uses to specific areas in the Rural Community Preserve and Policy 17.1.3 requires a minimum lot size of 43,560 square feet (one acre) so the language that staff struck through does not affect the Rural Community Preserve. The struck through language only affects the areas that are outside of the Rural Community Preserve, but are located in the Buckingham Planning Community and with the adoption of this amendment, as proposed, will be located in the Buckingham Planning area. Staff does not recommend expanding the Buckingham planning area.*

**POLICY 17.1.6:** When possible, ~~R~~residential development **along adjacent to the Buckingham Rural Community Preserve** boundary should make appropriate transitions to the community ~~by allowing only single-family homes~~ with a graduated **increase in** density as development moves away from the ~~planning~~ Rural Community **Preserve** boundaries.

*The Buckingham Rural Community Preserve is adjacent to Lehigh Acres on part of its southern boundary across Buckingham Road. It will not be possible to transition density at this location because the Lehigh lots are already platted at approximately 4 dwelling units/acre. Similarly, Buckingham Park is surrounded on three sides by the Rural Community Preserve and it will not be possible to transition density at that location.*

**POLICY 17.1.7:** To preserve the shoreline, all new **residential buildings, including attached screen enclosures will be no closer than must be setback** 50 feet from the top of bank of the Orange River.

*The County Attorney's office commented that increasing the riverbank setback from 25 to 50 feet raises the potential for claims under the Bert J. Harris Act.*

*The Land Development Code will need to be amended to require the 50 foot setback for all residential buildings. It should be noted that the Board of County Commissioners has been routinely requiring 50 foot setbacks from natural water bodies during the rezoning process. Environmental Sciences staff is working on land development regulations that will require a 50 foot setback from natural water bodies County wide.*

*Staff reviewed the dimensions of existing lots adjacent to the river. Through this review staff determined that because of the depth of the lots, the 50 foot setback would not preclude the construction of a single family home on each of those lots adjacent to the Orange River.*

*The recently adopted FIRM maps now include a provision that floodways must be kept free of encroachment so that the 1% annual chance flood can be carried without substantial increases in flood height. The floodway south of the Orange River in Buckingham exceeds 50 feet on most, if not all of the lots adjacent to the Orange River in Buckingham. Staff recommends transmittal of Policy 17.1.7 as revised.*

**OBJECTIVE 17.2: TRANSPORTATION AND ROADS.** To protect the rural character of the Buckingham area, the following restrictions apply:

1. The existing publicly maintained Lockett Road segments currently functioning as local roads will be retained. Any proposal to change the functionality of Lockett Road, such as to provide Lehigh Acres with access to I-75 at the Lockett Road interstate interchange, will require an analysis (Alignment Study, including public input) of the impacts to the Buckingham Rural Community Preserve. This analysis will include the review of alignments including diverting the proposed collector or arterial corridor as far south as possible, starting east of Pangola, in order to skirt the Buckingham area.
2. The extension of State Route 31 south of the Orange River is prohibited;.
3. The extension of Ellis Road is prohibited;.
4. The extension of Staley Road to State Route 82 is prohibited;.
5. No new east/west collector roadways will be planned or built within the Buckingham Rural Community Preserve;.
6. All ~~future~~ **future** rights-of-way in Buckingham will be no greater than ~~100~~ **80 100** feet (except for Buckingham Road and Lockett Road extensions).
7. The extension and connection of Long Road to Ellis ~~r~~**R**oad is prohibited. (Amended by Ordinance No. 94-30, 99-15, 00-22)

*DOT's comment is that the expansion of the boundaries from the Rural Community Preserve to the whole planning community is a concern when it comes to the road limitations under Objective 17.2. DOT is well into the Lockett Road alignment study, working with the objective as currently written, so a change could cause problems.*

*The changes to number 6 under the objective are a concern. No data and analysis was submitted to support the change from "future rights-of way" to "rights-of way". There may be existing rights-of-way in excess of 80 feet in the Rural Community Preserve. The change from 100 feet to 80 feet would appear to be an attempt to prohibit collector roads which is not good transportation planning. Buckingham is positioned between Lehigh Acres and Fort Myers and*

traffic is going to come through their community. Additional collector roads may be necessary in the future. Staff does not recommend changing the existing policy language.

**POLICY 17.2.1:** The Lee County Department of Transportation will work with the Buckingham community to identify issues, propose options, and develop a plan directed at improving safety on roads, limiting the negative effects of traffic, and improving the overall functionality of roads within the Buckingham community.

Staff received no comments on Policy 17.2.1.

**POLICY 17.2.2:** ~~The Director of Development Services shall have the authority under Section 10-104 of the LDC to grant administrative variances to Section 10-174(5)(d) for minor subdivisions of at least 2.5 acre lots when, in the Director's sole discretion, it is determined that such a variance would be consistent with the road network in the area and not cause any other negative impacts or jeopardize the health, safety, and welfare of the general public.~~

The appropriate way to achieve the intent of Policy 17.2.2 is to amend the Land Development Code. Staff does not recommend transmittal of Policy 17.2.2.

**OBJECTIVE 17.3: SEWER AND WATER PUBLIC FACILITIES AND UTILITIES.** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Map 7 as Future Sanitary Sewer Service Areas, the existing Resource may be extended along major roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19) **To protect the rural character of the Buckingham community, public facilities and utilities that detract or diminish will be designed to maintain or enhance the overall community character are prohibited of Buckingham.**

Objective 17.3 as proposed is not measurable. Whether a public facility would detract or diminish the overall community character is subjective. Staff believes Policy 17.3, as revised, is consistent with the intent of the subsequent policies under the objective.

**POLICY 17.3.1:** In order to discourage unwanted urban development, central sewer lines will not be extended into the Buckingham community, except in the areas identified by Lee Plan Map 7 (~~effective January 21, 2004~~) as Future Sanitary Sewer Service Areas, **as well as the existing Resource Recovery Facility, and the adjacent Lee County Parks and Recreation Facility, and any future public facility.**

Policy 17.3.1 has the potential to affect the planned Emergency Operations Center on property the County is negotiating to acquire from Lee County Mosquito Control and other public

*facilities that may be needed in the future. The policy will also limit the ability of others to tie into this line, thus burdening the County with a larger portion of the cost.*

*It may be necessary to extend central sewer lines in the future to serve existing development such as The Hut restaurant. The HUT has a failing wastewater treatment facility and are under a FDEP consent order to either replace the wastewater treatment facility or connect to the County's force main. In order for The Hut to connect to the County's force main, Map 7, Future Sewer Service Areas, will need to be amended. The Hut is not currently in the Sewer Service Area, and as proposed Policy 17.3.1 would prevent The Hut from connecting to County sewer lines. Staff recommends transmittal of Policy 17.3.1 as revised.*

**POLICY 17.3.2:** Central water lines may be extended along roads of the Buckingham Rural Preserve upon request of property owners, with extension and connection fees paid by the person(s) requesting the water service. The County may also extend central water lines through the area, if necessary. Connection to this expanded water service network will be on a voluntary basis. Under no circumstances will the availability of central water be accepted as justification for a density increase, or reduction of lot size requirements, within the Buckingham Rural Community Preserve. (Amended by Ordinance No. 00-22, 03-19)

*Staff does not object to Policy 17.3.2 as revised. Similar language is already in the Lee Plan in Objective 17.3.*

**~~POLICY 17.3.3:~~** ~~Residential natural gas lines are allowed within the Buckingham Community. All other fuel transmission lines, including commercial natural gas lines are prohibited. An exception should be made for a methane gas line to the Resource Recovery Facility that does not encroach on any other property within the Buckingham community.~~

*A Teco Peoples gas line is in place along Buckingham Road, and Policy 17.3.3 would make that gas line non-conforming. If other fuel transmission lines are needed to be installed in the Buckingham community, they will be installed underground and will have no visible affect on the community.*

**POLICY 17.3.4:** All new large developments as defined in chapter 10 of the Land Development Code, for which a local development order is required, shall must install utilities underground. Utilities include, but are not limited to, electricity, telephone, and cable lines.

*Large development is defined as a project of ten acres or more in land area or two acres or more in impervious surface. This requirement to install utilities under ground could increase the cost of construction, however the ability to cluster development as described in proposed policy 17.1.5 could help offset costs to some degree.*

**~~POLICY 17.3.5:~~** ~~The Buckingham Community recognizes the historic value of the Buckingham Army Airfield, the residential airparks, and the public service contributions of the Mosquito Control District and other public safety uses of the airfield. The~~

**Buckingham Community supports the Mosquito Control District in limiting its activities to those consistent with its purpose and the provision of other public services.**

*The first sentence of Policy 17.3.5 does not add anything meaningful to the Lee Plan. The second sentence is confusing. On one hand it states that the community supports the Mosquito Control District in limiting its activities to those consistent with its purpose (eradicating mosquitos) and then allows the provision of other public services. Staff does not recommend transmittal of Policy 17.3.5.*

**POLICY 17.3.6: The Buckingham community encourages Lee County to acquire Gulf Coast Center for uses consistent with and appropriate to those values of historic rural character and environmental protection expressed in Goal 17 of the Lee Plan. No temporary or emergency operation disaster aftermath facilities will be allowed, including FEMA trailers.**

*Lee County Public Safety and Lee County Human Services have objections to this policy. In the event of a natural disaster providing temporary housing in the Buckingham community may be a necessity. The Gulf Coast Center is one of only two publicly owned sites available in Lee County that meet the minimum criteria as an emergency group site for temporary housing. This language not only prohibits the County from this option, but also other facilities that might assist disaster survivors following a major or catastrophic disaster impacting our community. This site could be a critical resource needed in implementing the County's Disaster Housing Plan. Staff does not recommend transmittal of Policy 17.3.6.*

**POLICY 17.3.7: Detention and correctional facilities are prohibited within the Buckingham Community boundaries.**

*Staff has concerns about precluding any future need for a detention or correctional facility in any part of Lee County. Although the County has no plans to locate such a facility in Buckingham, the Gulf Coast Center in Buckingham is State owned land, and if they chose to place a correctional facility on that site they could do so with or without this policy. Staff does not recommend transmittal of Policy 17.3.7.*

**POLICY 17.3.8: Additional water treatment, sewage treatment, reclamation facilities, landfills, industrial facilities, and resource recovery facilities are prohibited in the Buckingham Community.**

*Lee County may need to place one or more of the facilities listed in Policy 17.3.8 in the Buckingham community at some future time to serve the area. This policy would prevent such a facility from being constructed. Staff does not recommend transmittal of Policy 17.3.8.*

**POLICY 17.3.9: East County Water Control District is encouraged to continue to develop and maintain its infrastructure to minimize flooding **and**, manage flows down the Orange River, and improve water quality. In addition, ECWCD is encouraged to work with the Lee County Emergency Operations Center to develop a system to warn residents in advance of large releases of water. ECWCD is also encouraged to develop means to improve water**



**quality.**

*The East County Water Control District and Lee County EOC do not object to Policy 17.3.9, as revised, and staff recommends transmittal of the policy.*

**OBJECTIVE 17.4: LANDSCAPING, BUFFERING, COMMUNITY AESTHETICS, AND QUALITY OF LIFE.** As a means for protecting and enhancing the Buckingham community's historic rural character and environmental values, developments, utilities, public services, road, and land use changes or improvements ~~shall~~ **will** provide appropriate landscaping, buffering, and community aesthetics to ensure that a rural lifestyle is preserved.

*Buffering requirements are located in Chapters 10 and 34 of the Land Development Code. The Buckingham community has no buffering requirements in excess of those found in the LDC. If the community would like buffering requirements specific to Buckingham then new land development regulations will need to be adopted.*

**POLICY 17.4.1: Public Utility infrastructure** facilities are required to establish and maintain an appropriate vegetative buffer using native materials. Buffering materials must be designed to enhance and protect the aesthetic values inherent to the **Buckingham Rural Community Preserve**. This is to include, electrical facilities, substations, **distribution and transmission lines**; resource recovery facilities, and telephone facilities. **Utility companies** should install and maintain buffers that obscure unsightly facilities.

*Staff does not know how the County could effectively buffer distribution and transmission lines. Buffering requirements are regulated by Section 10-416 and Section 34-1616 of the Land Development Code. The buffering requirement for public facilities are the same as those required for commercial uses. There are no buffering requirements for public facilities that are specific to the Buckingham community. If the Buckingham community would like to increase the current buffer requirements and require all native plant material for public facilities then the Land Development Code will have to be amended.*

**POLICY 17.4.2: Lee County will mitigate the negative aesthetic effects of the waste-to-energy incinerator in the Buckingham Community by regularly providing trash pick up on affected roads and establishing and maintaining an appropriate vegetative buffer.**

*The Department of Solid Waste objects to Policy 17.4.2. Solid Waste comments on policy 17.4.2 noted that they are currently providing roadway cleanup on Buckingham Road in the vicinity of the Resource Recovery Facility. Any additional "affected" roads would need to be defined, as all the roads in Lee County are affected by trash pickup. Staff does not recommend transmittal of Policy 17.4.2.*

**POLICY 17.4.3: Within the Buckingham community, residential walls are prohibited as boundaries for housing subdivisions or large residential developments. Berms are allowed in accordance with the Lee County Land Development Code, but should be designed to be undulating.**

*There is precedent for prohibiting walls in the Pine Island community. Policy 14.3.5 and Sec. 33-1086 address walls on Pine Island. The Land Development Code will need to be amended to implement Policy 17.4.3.*

**POLICY 14.3.5:** The county will amend its land development code to provide specific regulations for neighborhood connectivity and walls and gates on Greater pine Island if an acceptable proposal is submitted by the Greater Pine Island community. These regulations would require interconnections between adjoining neighborhoods wherever feasible and would no longer allow perimeter walls around larger developments (Added by Ordinance No. 03-03)

**Sec. 33-1086. Residential project fences and walls.** New residential project fences or walls are not permitted in Greater Pine Island (see section 34-1743). This restriction does not affect buffer walls that may be required by section 10-416.

**POLICY 17.4.4:** Residential and commercial lighting should be designed to reduce light pollution and light trespass in the Buckingham community.

*Outdoor Lighting Standards are addressed in Section 34-625 of the Land Development Code. Policy 17.4.4 is not inconsistent with those standards.*

**OBJECTIVE 17.5: ENVIRONMENT, OPEN SPACE AND PARKS.** The Buckingham community values its rural environment and has a goal of protecting open space for the present and future generations.

*Staff has no objection to Objective 17.5. If the Buckingham community would like to increase the required open space in their community then the Land Development Code will have to be amended.*

**POLICY 17.5.1:** Lee County will work with the Buckingham community to develop a plan for an interconnected system of parks, hiking, and horse riding trails within the Buckingham community.

*The County adopted the Greenways Master Plan on May 16, 2007. The Greenways Master Plan establishes the location of future multi-use trails throughout Lee County.*

**POLICY 17.5.2: Any access to the Orange River within the Buckingham Community will be limited to non-commercial residential use.**

*Staff can envision the benefit of a limited commercial use, such as a boat rental facility, at locations that access the Orange River. Policy 17.5.2 would prevent such a facility in the future. The Buckingham community does not want any commercial facilities, such as boat rentals, near the Orange River. Residents are concerned about protecting that resource and believe that an attraction such as a boat rental operation would cause too much impact to the river. These issues can be addressed on a case by case basis as any proposals come forward from the County or private sector and the community will have the opportunity to express their concerns and opinions.*

*Proposed Policy 17.5.2 is not consistent with the intent of Lee Plan Objective 82.1, Policy 82.1.1, Objective 82.2, Policy 82.2.1, and Objective 82.3.*

**OBJECTIVE 82.1: WATER ACCESS STANDARD-ACQUISITION.** The county will maintain its current inventory of water accesses and will acquire additional water accesses whenever and wherever economically feasible (“non-regulatory” desired future level of service, see Policy 95.1.4).

**POLICY 82.1.1:** The county will continue to pursue grants and other initiatives such as the “Save Our Coast” program as funding sources for additional water accesses.

**OBJECTIVE 82.2: WATER ACCESS STANDARD-DEVELOPMENT.** Lee County will retain the current inventory of water accesses and develop and/or redevelop at least 3 water accesses per year (“non-regulatory” minimum acceptable level of service, see Policy 95.1.3).

**POLICY 82.2.1:** The development of each water access will be evaluated on an individual basis in order to provide the correct level of development for each site. Development of water accesses will vary from simple signage on some to parking areas, beach crossovers, and dune restoration on others.

**OBJECTIVE 82.3: INVENTORY OF WATER ACCESSES.** Lee County will continue to research and maintain available data to determine if there are any additional publicly owned water access which could be added to the current inventories. This research will include the Gulf of Mexico frontage as well as the back bays.

**POLICY 17.5.3:** The removal of invasive exotic plants, as defined by the state or county, is encouraged within the **Buckingham Rural Community Preserve.**

*The removal of exotic vegetation is encouraged County wide.*

~~**OBJECTIVE 17.6: AGRICULTURE. In order to preserve and promote the existing agricultural land use pattern in the Buckingham Community, all the policies in the Buckingham Plan shall consider and under this objective will be applied in a manner that will protect agricultural activity and small family farms.**~~

*The County does not have control over what the Property Appraiser does or how land is valued. Direction to the Property Appraiser is not appropriate in the Lee Plan. Staff does not recommend transmittal of Objective 17.6 or subsequent policies 17.6.1 through 17.6.5.*

~~**POLICY 17.6.1: Lee County will work closely with the Property Appraiser to insure that the Goal, Objectives and Policies of the Buckingham Plan are given full consideration in assessing the value of land in Buckingham and in the granting of agricultural exemptions.**~~

~~**POLICY 17.6.2: The Buckingham Community Plan recognizes the land use of small family farm of no more than ten acres, where the owner resides on the property, and stipulates that it can be a viable commercial activity.**~~

~~**POLICY 17.6.3: If a small family farm loses its agricultural exemption, the Property Appraiser will utilize appropriate formulas for applying the homestead exemption to the former agricultural land.**~~

**POLICY 17.6.4: The Property Appraiser will give full consideration to any agricultural or conservation easements when assessing property in Buckingham.**

**POLICY 17.6.5: Crops grown for alternative energy sources on an experimental basis, such as *Jatropha curcas*, shall be considered as a commercial agricultural activity by the Property Appraiser.**

**POLICY 17.6.6: Boarding stables will be allowed to give lessons and clinics if the operation does not create a use, road access, or drainage nuisance to its neighbors.**

*Hours of operation and scope of use are typically addressed in the Land Development Code. Staff recommends incorporating Policy 17.6.6 into Policy 17.1.2 as shown above.*

### **PART III - LOCAL PLANNING AGENCY REVIEW AND RECOMMENDATION**

DATE OF FIRST PUBLIC HEARING: April 27, 2009

#### **A. LOCAL PLANNING AGENCY REVIEW**

Staff provided background information CPA2007-49 and reviewed the staff report and recommendations.

General questions and answers ensued. Discussion took place about expanding the boundaries and including a 95 acre tract of land located south of Buckingham Park.

One LPA member expressed concerns with including the 95 acre tract of land if this has not been discussed with the property owners.

The LPA chairman asked if anyone from the public wished to comment on this item. Public input was received from:

The Buckingham Community Planning Panel president, two Buckingham residents and their planning consultant spoke in favor of the Buckingham plan amendment as submitted by the Buckingham Community Planning Panel and asked the LPA to recommend transmittal of the amendment as submitted by the planning panel.

Two representatives of the owner of the 95 acre tract of land located south of Buckingham Park spoke generally in favor of the staff recommendation, but asked that the reference to the Buckingham community be made consistent throughout the amendment. One of the representatives noted that his client did not wish to be made part of the Buckingham community planning area.

#### **Suggestions/Comments by the Local Planning Agency:**

One LPA member felt the document is confusing as to the language that needs to be redrafted in order to implement the wishes of the community. He asked that the community continue to work with staff and come forward with a draft that answers all concerns that have been raised during today's proceedings because they are valid concerns. He also felt the community needed to recognize existing property rights on properties they want included in their area. The language needs to be drafted so those rights are protected. He asked that this item be continued to the June 3, 2009 Local Planning Agency meeting and that a new draft be provided.

Another LPA member stated he was not against what the community was trying to do, but he was concerned about using the Comprehensive Plan Amendment process to erode the rights of a piece of property without the property owner's permission by putting provisions into the Comprehensive Plan. If the community has a problem with development plans for the site, they can address those concerns during the zoning process.

Several LPA members asked that the community attempt to work with staff further to come up with something that is easier to understand and takes into account concerns expressed at this meeting.

One LPA member agreed the community should have an opportunity to establish a vision for their community and set out some guidelines, but he was concerned with some components such as NIMBYism (Not In My Backyard). He did not want to see a proliferation of that across the County. He also expressed concerns about the connection to water and sewer. If there is a water quality issue out there and the community is prohibited from connecting to central water and sewer, it could be a problem for the community.

A motion was made and seconded to continue CPA2007-49 Buckingham Community Plan to the June 3, 2009 Local Planning Agency meeting with direction for the community and staff to work together to revise the amendment prior to the June meeting. The motion passed 7-0.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

Motion to continue CPA2007-49 to the June 3, 2009 LPA meeting and give direction for the community and staff to work together to revise the amendment. Motion carried 7-0.

**C. BASIS AND RECOMMENDED FINDINGS OF FACT:**

The LPA accepted the Findings of Fact as advanced by staff.

**D. VOTE:**

<b>NOEL ANDRESS</b>	<u>AYE</u>
<b>CINDY BUTLER</b>	<u>AYE</u>
<b>CARRIE CALL</b>	<u>AYE</u>
<b>JIM GREEN</b>	<u>AYE</u>
<b>MITCH HUTCHCRAFT</b>	<u>AYE</u>
<b>RONALD INGE</b>	<u>AYE</u>
<b>CARLA JOHNSTON</b>	<u>AYE</u>

DATE OF SECOND PUBLIC HEARING: June 3, 2009

**A. LOCAL PLANNING AGENCY REVIEW**

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT SUMMARY**

**C. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**D. VOTE:**

**NOEL ANDRESS**

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**CINDY BUTLER**

\_\_\_\_\_

**CARRIE CALL**

\_\_\_\_\_

**JIM GREEN**

\_\_\_\_\_

**MITCH HUTCHCRAFT**

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**RONALD INGE**

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**CARLA JOHNSTON**

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**PART IV - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING:

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANK MANN**

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**PART V - DEPARTMENT OF COMMUNITY AFFAIRS OBJECTIONS,  
RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: \_\_\_\_\_

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS**
  
- B. STAFF RESPONSE**

**PART VI - BOARD OF COUNTY COMMISSIONERS  
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: \_\_\_\_\_

**A. BOARD REVIEW:**

**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

**1. BOARD ACTION:**

**2. BASIS AND RECOMMENDED FINDINGS OF FACT:**

**C. VOTE:**

**BRIAN BIGELOW**

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**TAMMARA HALL**

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**ROBERT P. JANES**

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**RAY JUDAH**

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**FRANK MANN**

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