

**MINUTES REPORT  
LOCAL PLANNING AGENCY  
December 17, 2007**

**MEMBERS PRESENT:**

Noel Andress	Carleton Ryffel (Vice Chair)
Derek Burr (Chair)	Leland Taylor
Les Cochran	Rae Ann Wessel
Ron Inge	

**STAFF PRESENT:**

Donna Marie Collins, Asst. Cty. Atty.	Jim Mudd, Principal Planner
Wayne Daltry, Smart Growth Coord.	Matt Noble, Principal Planner
Janet Miller, Recording Secretary	Paul O'Connor, Planning Director

**Agenda Item 1 – Call to Order, Certificate of Affidavit of Publication**

Ms. Burr, Chair, called the meeting to order at 8:35 a.m. in the Community Development/Public Works Center, 1500 Monroe Street, Fort Myers, Florida. Ms. Collins, Assistant County Attorney, certified that the affidavit of publication was legally sufficient as to form and content and entered it into the record.

**Agenda Item 2 – Pledge of Allegiance**

**Agenda Item 3 – Public Forum - None**

**Agenda Item 4 – Approval of Minutes – November 19, 2007**

The Board discussed further their concerns with abbreviating future meeting minutes.

Mr. O'Connor noted that all Local Planning Agency meetings would be recorded digitally. These digital recordings will be available to the public via our internet site.

Ms. Collins explained that the truncated meeting minutes were in direct response to budget cuts. As a result of budget cuts, positions have been eliminated. In an effort to conserve the time of staff remaining, they will have the minutes to the committee meetings abbreviated to be more in line with what the law requires. In addition, the Attorney's office will put together a summary report for the Board of County Commissioners outlining the LPA's recommendations for certain pending ordinances that come before them.

The Board agreed to try these truncated minutes on a trial basis to see if any problems occur or if they will suffice.

**Mr. Cochran moved to approve the November 19, 2007 meeting minutes, seconded by Mr. Ryffel. There being no further discussion, the motion passed 7-0.**

## **Agenda Item 5 – CPA2007-01 Caloosahatchee Community Plan**

Jim Mudd gave a brief review of his staff report and recommendations.

Mr. Inge expressed concern with designating a permanence of rural and ignoring the fact that this area will continue to grow and may need commercial at some point. He felt there should be an analysis done to determine what part of the 3,189 acres would be appropriate for commercial.

Mr. O'Connor noted that if there is a need in the community for commercial then three members of the Board of County Commissioners can find that there is an overriding public need and make that change.

Ms. Wessel appreciated the fact that this community based amendment underscores the desires of the community to emphasize the rural character of their area and preserve it as has been done with Buckingham Community and the Bayshore Community.

Mr. Ryffel referred to last month when he suggested staff look into some ULI standards for how much commercial would be needed for a certain amount of people as well as what type of commercial. He felt this should be presented to the Board and that staff does have access to some of this information, such as how far the closest commercial site is to this area.

The LPA had lengthy discussion of Mr. Spickerman's memorandum dated October 24, 2007 regarding Bert J. Harris implications.

Mr. Inge referred to earlier comments by LPA members regarding people coming in and trying to make changes to their rural land use designation. He noted that when someone applies for a plan amendment, they must go through an analysis from the Planning Division, various other departments, the LPA, and the Board of County Commissioners. This rigorous process will continue regardless of whether or not this plan amendment is adopted.

Ms. Wessel felt the troubling part is that an undue burden is placed on the general public who had some assurance when they looked at the Lee Plan and bought their property. There is a shifting of responsibility where those property owners must be aware of proposed changes, understand the process, and affectively advocate their position.

Ms. Burr asked if anyone from the public wished to comment on this issue. Public comment was received from Kris Cella, member of the Board of Directors for the East Lee County Council (sponsor of this proposal).

Mr. Inge stated for the record that his concern is that he was not sure how effective it is to simply indicate that 3 board members have to make this decision. He noted that the Board of County Commissioners already make these decisions and their meetings are well attended, so he was not sure this would accomplish very much.

**Ms. Wessel made a motion to recommend transmittal of CPA2007-01 Caloosahatchee Shores, BOCC Sponsored Amendment, with the recommendation that this go forward with staff's recommendation, seconded by Mr. Ryffel. There being no further discussion, the motion passed 7-0.**

**Agenda Item 6 – CPA2005-49 Update Goal 10 Mining**

Mr. Ryffel noted he had a conflict of interest on this item. He would participate in the discussion, but would abstain from voting. He filed Form 8B (Voting Conflict Form).

Matt Noble and Wayne Daltry reviewed this item and gave some background information. General questions and answers ensued.

Ms. Burr asked if anyone from the public wished to comment on this issue. Public comment was received from:

Ellie Boyd, representing the Responsible Growth Management Coalition  
Mike Ciccarone, representing Golf Rock Mine and Schwab Materials Mine

Clarification was given that recommendations previously made by the LPA to the Board of County Commissioners will be included in this effort. Those items were: 1) contaminant migration rates through mine pits and open water bodies into the water resources; 2) the affect that mine pits and open water bodies have on potable water resources; and, 3) the future revision of the wellfield protection model to include all water bodies natural and man-made influencing the wellheads when a proponent comes in to mine in that particular area.

Discussion took place regarding historic flow levels and connectivity, time period for post-mining, definition of connectivity, the possibility that this amendment is premature when the DRGR study has not been prepared yet, and Bert J. Harris implications.

Mr. Inge stated that, based on comments from staff and the public, he felt it was premature to pass this amendment when a DRGR effort is underway. **He made a motion to remove CPA2005-49 from this round of amendments and have it brought forward along with the recommendations of the DRGR study, seconded by Mr. Taylor.**

Mr. Cochran noted he was torn by the motion because often there are studies and recommendations that go on for a long time, but in the meantime, everything should not stop. You should keep working on things and attempt to make your policies and procedures better. If a new study comes out at a later date, you review that study in the context of what you have as your best goals and objectives. He felt staff should make this amendment the best that they can recognizing that it is still under review and other efforts are taking place. He felt the LPA should move this amendment forward by making their suggestions and changes. This will give the Board of County Commissioners the opportunity to decide whether or not they feel the amendment is premature.

Mr. Address concurred with Mr. Cochran's comments and noted this amendment was put off a year ago. He felt staff did a good job of revising it. He recommended moving forward with the amendment with some changes to the objectives and policies.

Mr. Inge noted that there is a moratorium in the DRGR area over any comprehensive plan amendments for a year. There is also a moratorium in the DRGR area over mining and zoning applications for a year. The DRGR Study Committee will be through in June of 2008, which will be before the next round of amendments. He felt this gives the LPA and staff enough time to review items such as this amendment and get it into the next cycle. His recommendation was to table this amendment pending outcome from the DRGR Study Committee.

Ms. Wessel felt this amendment was a step in the right direction, but asked if input received at today's meeting could be integrated into the amendment by staff, such as issues dealing with water quality, and clarifying comments on historic flow levels and connectivity. She asked if this could be brought back next month with some revisions incorporated into the document.

Mr. Inge stated his concern is that staff has not had adequate time to address some of the issues raised today and felt they were being asked to create work that the DRGR Committee is tasked to do. He felt it was irresponsible and improper to have staff make these changes within a month regardless of the other large effort taking place with the DRGR Committee.

**Mr. Inge's motion to delay any action on this amendment pending the results of the DRGR Study Committee was called to question. There being no further discussion, the motion failed 2-4. Mr. Cochran, Mr. Address, Ms. Burr, and Ms. Wessel were opposed. Mr. Ryffel abstained.**

**Mr. Address made a motion to recommend transmittal of CPA2005-49 with the following changes:**

- **Objective 10.3:** Add the words "...and existing residential activities and review the regional and cumulative impacts" after the word "future."
- **Policy 10.3.1:** Add the words "...and surrounding properties" after the word "sub-basins."
- **Policy 10.3.2:** Add the words "...and protection for single residential wells" after "concentrations of domestic self supplied users."
- **Policy 10.3.3:** Revise language to say "quarry pits." Also, add "consideration of the primary and secondary impacts" after "land uses surrounding the site."
- **Policy 10.3.4:** Add at the end of the paragraph "and also consideration of the transportation routes and the impacts that it will have on those routes."
- **Policy 10.3.6:** Add the word "mining" after the word "adverse" in the first sentence so that it reads, "Any significant adverse mining impacts..."

- **Policy 10.3.7:** Change the word “lakes” to “quarry pits.” Add a definition for “connectivity.
- **Policy 10.3.5:** Fix the typo “swill” for “will.” Also, correct the typo in the word “Future” at the top of this section on Page 3 of 12.

Mr. Andress noted that Policy 10.3.4 covered water quality issues.

**Ms. Wessel seconded the motion.**

Mr. Cochran was in support of the motion except that he wanted to have an opportunity to see that these changes are incorporated. He asked for an amendment to the motion. **The amendment would be to incorporate all changes that were made in the original motion, but instead of sending it as a transmittal document to the Board, it will be brought back for further review by the LPA. This will also allow an extra month for staff to evaluate these changes. Mr. Andress and Ms. Wessel agreed to the amendment.**

**The motion was called for question. There being no further discussion, the motion passed 4-2. Mr. Taylor and Mr. Inge were opposed. Mr. Ryffel abstained.**

#### **Agenda Item 7 - Other Business** – None

Staff clarified that the items the LPA discussed for the Wellfield Protection Ordinance would be included in the DRGR study. Staff explained that the contract with the consultant had not been finalized, but it is the County’s intentions to include the wellfield issues raised by the LPA as part of the study.

Discussion took place regarding a constitutional amendment for the hometown democracy and how it will affect the Local Planning Agency and County. This document has language that states “before local government may adopt a new comprehensive land use plan, the proposed plan or amendment shall be subject to a vote of the electors of the local government by referendum following preparation by the Local Planning Agency...”

#### **Agenda Item 8 – Adjournment**

**Mr. Inge made a motion to adjourn, seconded by Mr. Taylor. There being no further discussion, the motion passed 7-0.**

**LOCAL PLANNING AGENCY  
ATTENDANCE RECORD FOR 2007**

Committee Member	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Noel Andress	P	NM	P	P	P	NM	NM	P	P	P	P	P
Derek Burr	P	NM	P	P	P	NM	NM	P	P	P	P	P
Les Cochran	P	NM	P	P	A	NM	NM	P	P	P	P	P
Ron Inge	P	NM	A	P	P	NM	NM	P	P	P	P	P
Carleton Ryffel	P	NM	P	P	P	NM	NM	P	P	P	P	P
Rae Ann Wessel	P	NM	P	P	A	NM	NM	P	A	P	P	P
Leland Taylor	V	NM	V	V	P	NM	NM	P	A	P	P	P

P - Present  
A - Absent  
NM - No Meeting  
RES - Resignation

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>RYFFEL CARLETON</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>LPA</b>
MAILING ADDRESS <b>6200 WHISKEY CREEK DR</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input type="checkbox"/> CITY <input checked="" type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY <b>FT MYERS Lee</b>	NAME OF POLITICAL SUBDIVISION: <b>Lee Co</b>
DATE ON WHICH VOTE OCCURRED <b>12/17/7</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

### WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

### INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his or her special private gain. Each elected or appointed local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he or she is retained (including the parent organization or subsidiary of a corporate principal by which he or she is retained); to the special private gain of a relative; or to the special private gain of a business associate. Commissioners of community redevelopment agencies under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

\* \* \* \* \*

#### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

#### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you otherwise may participate in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, CARLETON RYFFEL, hereby disclose that on 12/17, <sup>2007</sup>~~198~~:

(a) A measure came or will come before my agency which (check one)

- inured to my special private gain;
- inured to the special gain of my business associate, \_\_\_\_\_;
- inured to the special gain of my relative, \_\_\_\_\_;
- inured to the special gain of Hole Motors, by whom I am retained; or
- inured to the special gain of \_\_\_\_\_, which is the parent organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

*My employer has clients in the mining industry.  
CPA 2005-49*

12/17/7  
Date Filed

*Carleton Ryffel*  
Signature

**NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1991), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.**



**NEWS-PRESS**

*Published every morning - Daily and  
Sunday  
Fort Myers, Florida*

**Affidavit of Publication**

STATE OF FLORIDA  
COUNTY OF LEE

Before the undersigned authority, personally appeared  
**Kathy Allebach**  
who on oath says that he/she is the  
**Legal Assistant** of the News-Press, a  
daily newspaper, published at Fort Myers, in Lee County,  
Florida; that the attached copy of advertisement, being a  
**Display**

In the matter of  
**Meeting Notice**  
In the court was published in said newspaper in the  
issues of  
**December 7, 2007**

Affiant further says that the said News-Press is a paper of  
general circulation daily in Lee, Charlotte, Collier, Glades  
and Hendry Counties and published at Fort Myers, in said Lee  
County, Florida and that said newspaper has heretofore been  
continuously published in said Lee County, Florida, each day,  
and has been entered as a second class mail matter at the post  
office in Fort Myers in said Lee County, Florida, for a period of  
one year next preceding the first publication of the attached copy  
of the advertisement; and affiant further says that he/she has  
neither paid nor promised any person, firm or corporation any  
discount, rebate, commission or refund for the purpose of  
securing this advertisement for publication in the said  
newspaper.

Sworn to and subscribed before me this

7th day of December 2007 by

**Kathy Allebach**  
personally known to me or who has produced

as identification, and who did or did not take an  
oath.

Notary Public

Print Name

**Gladys D. Vanderbeck**  
Commission # DD379667  
Expires December 13, 2008  
Enriched Tray Print - Insurance, Inc. 800-585-7019

My commission Expires

**LEE COUNTY**  
SOUTHWEST FLORIDA

**MEETING NOTICE  
LOCAL PLANNING AGENCY  
PUBLIC HEARING**

Notice is hereby given that the Lee County Local Planning Agency (LPA) will meet on Monday, December 17, 2007. The meeting will be held in Conference 1B located on the first floor of the Community Development/ Public Works Building, 1500 Monroe Street, in downtown Fort Myers. The meeting will commence at 8:30 a.m.

**AGENDA**

- 1. Call to Order; Certification of Affidavit of Publication**
- 2. Pledge of Allegiance**
- 3. Public Forum**
- 4. Approval of Minutes: November 19, 2007**
- 5. CPA2007-01 Caloosahatchee Community Plan**  
Amend the Future Land Use Element, Goal 21, to add a policy that provides that no land use map amendments to the remaining Rural lands category will be permitted unless a finding of overriding public necessity is made by three members of the Board of County Commissioners.
- 6. CPA2005-49 Update Goal 10 Mining**  
Amend the Lee Plan to address the further impacts of mining and steps needed for adequate mitigation or prevention of adverse impacts. Further, recommendations are made to prevent future land use conflicts between mining and other uses in rural areas. Goal 10, Natural Resource Extraction, is proposed to be expanded to include measures for rock mining, and for mitigation of rock mining impacts with adjacent land uses.
- 7. Other Business**
- 8. Adjournment**

This meeting is open to the public and all interested parties are encouraged to attend. Interested parties may appear and be heard with respect to all proposed actions. If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Further information may be obtained by contacting the Lee County Division of Planning at 533-8585. In accordance with the Americans with Disabilities Act, reasonable accommodations will be made upon request. If you are in need of a reasonable accommodation, please contact Janet Miller at 533-8583.

**RECEIVED**  
DEC 17 2007

**COMMUNITY DEVELOPMENT**