



# LEE COUNTY

## SOUTHWEST FLORIDA

### BOARD OF COUNTY COMMISSIONERS

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Writer's Direct Dial Number: (941) 479-8309

Bob Janes  
District One

November 5, 2003

Douglas R. St. Cerny  
District Two

Ray Judah  
District Three

Andrew W. Coy  
District Four

John E. Albion  
District Five

Donald D. Stilwell  
County Manager

James G. Yaeger  
County Attorney

Diana M. Parker  
County Hearing  
Examiner

Ray Eubank, Administrator  
Florida Department of Community Affairs  
Division of Community Planning  
Bureau of Local Planning  
2555 Shumard Oak Boulevard  
Tallahassee, FL. 32399-2100

Re: Amendments to the Lee Plan  
Adoption Submission Package (DCA No. 03-2) for the 2002/2003 Regular Comprehensive Plan  
Amendment Cycle

Dear Mr. Eubank:

In accordance with the provisions of F.S. Chapter 163.3184 and of 9J-11.011, this submission package constitutes the adopted 2002/2003 Regular Comprehensive Plan Amendment Cycle to the Lee Plan (DCA No. 03-2), known locally as CPA 2002-02, CPA 2002-04, CPA 2002-06, CPA 2002-08, CPA 2002-11, CPA 2002-13, CPA 2002-15, CPA 2002-19, and CPA 2002-22. The adoption hearing for these plan amendments was held at 9:30 am on October 23, 2003.

Included with this package, per 9J-11.011(5), are three copies of the adopted amendments, supporting data and analysis, and the following three adopting ordinances: Ordinance No. 03-19, Ordinance No. 03-20, and Ordinance No. 03-21. Also included, per F.S. 163.3184(7) and (15), is the required sign in form allowing a courtesy informational statement to interested citizens. By copy of this letter and its attachments I certify that this amendment has been sent to the Regional Planning Council, the Florida Department of Transportation (FDOT), the Department of Environmental Protection, the Florida Department of State, the Florida Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, Division of Forestry, and the South Florida Water Management District.

The initial staff reports for the proposed amendments were sent to the DCA with a transmittal cover letter dated July 3, 2003. All amendments previously reviewed by the Department in this current cycle of amendments were adopted by the Board of County Commissioners. Changes have occurred in CPA 2002-02, CPA 2002-13, and CPA 2002-19. CPA 2002-02 has been revised to address the objections raised by the DCA. Staff and the applicant have negotiated a compromise that has resulted in additional text changes. Revisions to CPA 2002-13 were also made. At the time that the transmittal staff report was prepared, it was noted that additional amendments to the MPO's highway map were being considered. The MPO has in fact adopted a revised plan in a public hearing process on June 20, 2003 and staff is reflecting the most recent version of the MPO's plan in Maps 3A, 3B and 3H, and in Policy 21.1.1. CPA 2002-19 has replaced a new table reflecting the new 2004/2008 fiscal year to the CIP. The Board of County Commissioners adopted 2002-02, CPA 2002-13, and CPA 2002-19 with the noted changes.

If you have any questions, or if I can be of any assistance in this matter, please feel free to call me at the above telephone number.

Sincerely,  
**DEPT. OF COMMUNITY DEVELOPMENT**  
**Division of Planning**



Paul O'Connor, AICP  
Director

All documents and reports attendant to this adoption are also being sent, by copy of this cover, to:

David Burr  
Interim Director  
Southwest Florida Regional Planning Council

Mike Rippe, District Director  
FDOT District One

Executive Director  
South Florida Water Management District

Plan Review Section  
Department of Environmental Protection

Florida Department of State

Florida Fish and Wildlife Conservation Commission

The Department of Agriculture and Consumer Services, Division of Forestry

LEE COUNTY ORDINANCE NO. 03-19  
(Consent Ordinance)

**AN ORDINANCE AMENDING THE LEE COUNTY COMPREHENSIVE LAND USE PLAN, COMMONLY KNOWN AS THE "LEE PLAN" ADOPTED BY ORDINANCE NO. 89-02, AS AMENDED, SO AS TO ADOPT AMENDMENTS APPROVED ON THE CONSENT AGENDA DURING THE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE; PROVIDING FOR AMENDMENTS TO ADOPTED TEXT, MAPS AND TABLES; PURPOSE AND SHORT TITLE; LEGAL EFFECT; GEOGRAPHICAL APPLICABILITY; SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

WHEREAS, the Lee County Comprehensive Plan (hereinafter referred to as the "Lee Plan") Policy 2.4.1 and Chapter XIII, provides for adoption of amendments to the Plan in compliance with State statutes and in accordance with administrative procedures adopted by the Board of County Commissioners; and,

WHEREAS, the Lee County Board of County Commissioners, in accordance with Section 163.3181, Florida Statutes, and Lee County Administrative Code AC-13-6 provide an opportunity for the public to participate in the plan amendment public hearing process; and,

WHEREAS, the Lee County Local Planning Agency ( "LPA") held public hearings pursuant to Chapter 163, Part II, Florida Statutes, and the Lee County Administrative Code on January 27, March 24, April 28, and May 28, 2003; and,

WHEREAS, the Board of County Commissioners, pursuant to Florida Statutes and the Lee County Administrative Code held a public hearing for the transmittal of the proposed amendments on June 25, 2003. At that hearing, the Board approved a motion to send, and did later send, the proposed amendment to the Florida Department of Community Affairs ("DCA") for review and comment; and,

WHEREAS, at the transmittal hearing on June 25, 2003, the Board announced its intention to hold a public hearing after the receipt of DCA's written comments commonly referred to as the "ORC Report." DCA issued their ORC report on September 5, 2003; and,

WHEREAS, the Board moved to adopt the proposed amendments to the Lee Plan set forth herein during its statutorily prescribed public hearing for the plan amendments on October 23, 2003.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, THAT:**

**SECTION ONE: PURPOSE, INTENT AND SHORT TITLE**

The Board of County Commissioners of Lee County, Florida, in compliance with Chapter 163, Part II, Florida Statutes, and with Lee County Administrative Code AC-13-6, conducted a series of public hearings to consider proposed amendments to the Lee Plan. The purpose of this ordinance is to adopt the certain amendments to the Lee Plan discussed at those meetings and approved by a majority of the Board. The short title and proper reference for the Lee County Comprehensive Land Use Plan, as amended, will continued to be the "Lee Plan." **This ordinance may be referred to as the "2002/2003 Regular Comprehensive Plan Amendment Cycle Consent Ordinance."**

**SECTION TWO: ADOPTION OF LEE COUNTY'S 2002/2003 REGULAR COMPREHENSIVE PLAN AMENDMENT CYCLE (Consent Agenda Items)**

The Lee County Board of County Commissioners amends the existing Lee Plan, adopted by Ordinance Number 89-02, as amended, by adopting amendments, as revised by the Board of County Commissioners on October 23, 2003, known as: CPA2002-06, CPA2002-08, CPA2002-11, CPA2002-13, CPA2002-15, CPA2002-19, and CPA2002-22.

The aforementioned amendments amend the text of the Lee Plan including the Future Land Use Map series, the Transportation Map Series, and the tables of the Lee Plan. A brief summary of the content of those amendments is set forth below:

**CPA2002-06 (Outlying Suburban Residential Allocations)**

Amend Table 1(b), Planning Community Year 2020 Allocations, by correcting the Outlying Suburban Allocation for the Alva Community.

**CPA2002-08 (Conservation Lands)**

Amend the Future Land Use Map Series, Map 1, by updating the Conservation Lands Future Land Use Categories.

**CPA2002-11 (Buckingham Potable Water)**

Amend Goal 17, Buckingham, of the Future Land Use Element by adding language that allows the extension of water lines to serve the Buckingham Rural Community Preserve on a voluntary basis, with cost of extension to be paid by the petitioner. Amend Map 6, Future Water Service Areas, to show the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County. Amendment Map 7, Future Sewer Service Areas, to add certain public facility sites (Gulf Coast Center and Tice Fire Station) to the Future Sanitary Sewer Service Area Map.

**CPA2002-13 (Financially Feasible Transportation Map)**

Amend the Transportation Maps of the Future Land Use Map Series and related policy references to reflect the most recent Lee County MPO 2020 Financially Feasible Transportation Plan Map.

#### **CPA2002-15 (Constrained Roads)**

Update Table 2(a), Constrained Roads/State and County Roads, to eliminate Old U.S. 41, which is now a City of Bonita Springs road.

#### **CPA2002-19 (Capital Improvements Program)**

Amend the Capital Improvements Element (Tables 3 and 4) to reflect the most recently adopted Capital Improvement Program.

#### **CPA2002-22 (Policy 100.2.3. Text Update)**

Amend Policy 100.2.3. of the Housing Element by replacing the outdated reference to the "special permit" approval process with the current process of "special exception."

The corresponding Staff Reports and Analysis, along with all attachments for these amendments are adopted as "Support Documentation" for the Lee Plan.

#### **SECTION THREE: LEGAL EFFECT OF THE "LEE PLAN"**

No public or private development will be permitted except in conformity with the Lee Plan. All land development regulations and land development orders must be consistent with the Lee Plan as amended.

#### **SECTION FOUR: GEOGRAPHIC APPLICABILITY**

The Lee Plan is applicable throughout the unincorporated area of Lee County, Florida, except in those unincorporated areas included in joint or interlocal agreements with other local governments that specifically provide otherwise.

#### **SECTION FIVE: SEVERABILITY**

The provisions of this ordinance are severable and it is the intention of the Board of County Commissioners of Lee County, Florida, to confer the whole or any part of the

powers herein provided. If any of the provisions of this ordinance are held unconstitutional by a court of competent jurisdiction, the decision of that court will not affect or impair the remaining provisions of this ordinance. It is hereby declared to be the legislative intent of the Board of County Commissioners that this ordinance would have been adopted had the unconstitutional provisions not been included therein.

#### SECTION SIX: INCLUSION IN CODE, CODIFICATION, SCRIVENERS' ERROR

It is the intention of the Board of County Commissioners that the provisions of this ordinance will become and be made a part of the Lee County Code. Sections of this ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase in order to accomplish this intention; and regardless of whether inclusion in the code is accomplished, sections of this ordinance may be renumbered or relettered. The correction of typographical errors that do not affect the intent, may be authorized by the County Manager, or his or her designee, without need of public hearing, by filing a corrected or recodified copy with the Clerk of the Circuit Court.

#### SECTION SEVEN: EFFECTIVE DATE

The plan amendments adopted herein are not effective until a final order is issued by the DCA or Administrative Commission finding the amendment in compliance with Section 163.3184, Florida Statutes, whichever occurs earlier. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before the amendment has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status. A copy of such resolution will be sent to the DCA, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

THE FOREGOING ORDINANCE was offered by Commissioner Albion, who moved its adoption. The motion was seconded by Commissioner Janes, and, when put to a vote, the vote was as follows:

Robert P. Janes	Aye
Douglas St. Cerny	Aye
Ray Judah	Aye
Andrew Coy	Absent
John Albion	Aye

DONE AND ADOPTED this 23<sup>rd</sup> day of October 2003.

ATTEST:  
CHARLIE GREEN, CLERK

BY:

*Isa S. Pierce*  
Deputy Clerk

LEE COUNTY  
BOARD OF COUNTY COMMISSIONERS

BY:

*Ray Judah*  
Chairman

DATE: 10/23/03

Approved as to form by:

*Donna Marie Collins*  
Donna Marie Collins  
County Attorney's Office





**Charlie Green**  
**Clerk of Circuit Court**  
**Lee County, Florida**

STATE OF FLORIDA

COUNTY OF LEE

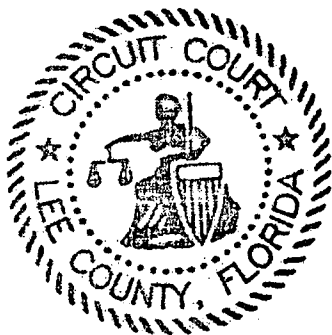
I Charlie Green, Clerk of Circuit Court, Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that the above and foregoing, is a true and correct copy of Ordinance No. 03-19, adopted by the Board of Lee County Commissioners, at their meeting held on the 23rd day of October 2003 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 27th day of October 2003.

CHARLIE GREEN,  
Clerk of Circuit Court  
Lee County, Florida

By:

  
Deputy Clerk



**CPA2002-11  
BUCKINGHAM POTABLE WATER  
BoCC SPONSORED  
AMENDMENT  
TO THE**

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**LEE COUNTY COMPREHENSIVE PLAN**

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**THE LEE PLAN**

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**BoCC Adoption Document**

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*Lee County Planning Division  
1500 Monroe Street  
P.O. Box 398  
Fort Myers, FL 33902-0398  
(941) 479-8585*

**October 23, 2003**

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2002-11**



**Text Amendment**



**Map Amendment**

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

STAFF REPORT PREPARATION DATE: February 27, 2003

**PART I - BACKGROUND AND STAFF RECOMMENDATION**

**A. SUMMARY OF APPLICATION**

**1. APPLICANT:**

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

**2. REQUEST:**

- Amend Goal 17, Buckingham, of the Future Land Use Element by adding language that allows water lines to be extended to serve the Buckingham Rural Community Preserve on a voluntary basis, with costs of extension to be paid by the petitioner.
- Amend Map 6, Future Water Service Areas, to show all of the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County.
- Amend Map 7, Future Sewer Service Areas, to add certain public facility sites (Gulf Coast Center and Tice Fire Station) to the Future Sanitary Sewer Service Area Map.

**B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:**

**1. REVISED RECOMMENDATION: (See Memo Dated March 18, 2003 and attached hereto as "EXHIBIT F")**

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment language as follows:

**OBJECTIVE 17.3: SEWER AND WATER.** In order to discourage unwanted urban development, central sewer ~~and water~~ lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by ~~Maps 6 and Map 7~~ as Future ~~Water and Sanitary Sewer Service Areas, the existing Resource Recovery Facility and the adjacent Lee County Parks and Recreation Facility.~~ and to the site of the proposed resource recovery facility ~~Central water lines 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)

Additional recommended action:

Replace existing Map 6 & 7 with proposed Maps 6 & 7 attached hereto as Exhibit A. (Existing Maps 6 & 7 are attached as Exhibit B).

**2. ORIGINAL RECOMMENDATION: (For reference only)**

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment language as follows:

**OBJECTIVE 17.3: SEWER AND WATER.** In order to discourage unwanted urban development, central sewer ~~and water~~ lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by ~~Maps 6 and Map 7~~ as Future ~~Water and Sanitary Sewer Service Areas.~~ Map 7 has been amended for the Buckingham Rural Community Preserve to show service to the existing Waste Energy Plant and adjacent Parks and Recreation Facility, Gulf Coast Center, and the Tice Fire Station, and to the site of the proposed resource recovery facility ~~Central water lines 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.~~ Map 6 has been amended to show all of the Buckingham Rural Community Preserve to be within the Future Water Service Areas of the County. (Amended by Ordinance No. 00-22)

Additional recommended action:

Replace existing Map 6 & 7 with proposed Maps 6 & 7 attached hereto as Exhibit A. (Existing Maps 6 & 7 are attached as Exhibit B).

## 2. BASIS AND RECOMMENDED FINDINGS OF FACT:

3. The existing Comprehensive Plan Objective 17.3 language reads as follows:

**OBJECTIVE 17.3: SEWER AND WATER.** *In order to discourage unwanted urban development, central sewer and water lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Maps 6 and 7 as Future Water and Sanitary Sewer Service Areas and to the site of the proposed resource recovery facility. (Amended by Ordinance No. 00-22)*

- Gulf Coast Center has requested that Lee County allow the extension of a 10" diameter water main to the site. The extension of the 10" water line will relieve the Center of the financial burden of operating an aged on-site water treatment system.
- The Buckingham Conservancy, Inc. has expressed an interest in the extension of potable water service by Lee County Utilities to residents and business owners of the Buckingham Rural Community Preserve on a voluntary basis only.
- The Department of Children and Family Services (on behalf of Gulf Coast Center) and Lee County, Florida (for Lee County Utilities) have drafted an interlocal agreement which delineates the location, size, payment and maintenance arrangements for extension of a water transmission line through the Buckingham Community to Gulf Coast Center (See drafted interlocal agreement attached hereto as Exhibit D).
- Certain public facility sites in the Buckingham Preserve have existing sewer service from Lee County Utilities or through an interlocal agreement with the City of Fort Myers: Gulf Coast Center, the Lee County Waste Energy Plant and adjacent Parks and Recreation Facilities. Tice Fire Department does not have existing sewer service, however this public facility is surrounded on three sides by Gulf Coast Center.
- Extension of sewer lines into the Buckingham Community is not anticipated at this time nor in the future. It is the intention and desire of the Buckingham residents to maintain a maximum density of one dwelling unit per acre and minimum lot size of one acre. Under such low density conditions the extension of sanitary sewer lines is presumed to be unnecessary and cost prohibitive.
- The amendments proposed herein will require changes to Lee County Comprehensive Plan Maps 6 and 7 as well as changes to the language contained in Objective 17.3.

### C. BACKGROUND INFORMATION

On January 25, 1991 the Lee County Comprehensive Plan was amended to designate specific protective provisions for Buckingham Community within the Rural Community Preserve Future Land Use Category (Ordinance 91-19). Residents of Buckingham sought the amendment in order to establish a regulatory basis to maintain the unique agricultural and rural heritage of their community (see Exhibit C for a brief history of the Buckingham area). The original Buckingham Preserve policy language was further amended by Ordinances 93-25, 94-30, 98-09, 99-15, 00-22. Today's language contains several objectives which are generally described below:

- The prohibition against any change to the designation of lands in Buckingham from the Rural Community Preserve future land use category to a more intensive future land use category, with specific provisions for the possible change to the Public Facilities category with a finding of overriding public necessity by at least 3 members of the Board of County Commissioners
- The prohibition against any new zoning approval for a Recreational Vehicle Planned Development
- The creation of a discrete commercial node, with the requirement that all new commercial development in that node provide a minimum of 30% open space
- The requirement that all new development be completed at a maximum density of one dwelling unit per acre with a minimum lot size of one acre
- Conditions which limit the extension of roads and dedication of right-of-way within the Buckingham community
- The provision that water and sanitary sewer lines may not be extended into the Buckingham Preserve "except in the areas identified by Map 6 and 7 as Future Water and Sanitary Sewer Service Areas and to the site of the proposed resource recovery facility."

The provision which limited expansion of water and sanitary sewer service was intended to discourage potential pressure to develop at higher densities than desired by the residents of Buckingham Rural Preserve. In 1995 the Department of Health and Rehabilitative Services "HRS" (for Gulf Coast Community Center) and Lee County (for Lee County Utilities) signed an interlocal agreement that allowed the extension of a sanitary sewer line to Gulf Coast Center, located within the Public Facilities Future Land Use in Buckingham. The interlocal ensured that the sewer line would not be available to the community at large, and was thus interpreted by the Buckingham Community to be in compliance with the spirit of the Buckingham sanitary sewer and water provision of the Comprehensive Plan.

Gulf Coast Community Center has now requested that a potable water line be extended from approximately one mile south of SR80, south along Buckingham Road, to the facility. The Buckingham Conservancy responded with a request for the BoCC to initiate an amendment to the Comprehensive Plan that would allow water service to be extended on a voluntary basis throughout the Buckingham area. Contingent upon approval of the proposed changes to the Comprehensive Plan, Lee County Utilities has agreed to provide water service to the Buckingham area, on a voluntary basis, with the costs of each extension to be paid by the petitioner.

## **PART II - STAFF ANALYSIS**

### **A. STAFF DISCUSSION**

Lee County Utilities originally indicated that the extension of the proposed 10" potable water line to Gulf Coast Center should be accommodated as part of a main transmission line project planned to convey water from one area of the county to another. In a letter dated September 13, 2002, The Buckingham Conservancy, Inc. requested that Lee County sponsor new language for Objective 17.3 of the Comprehensive Plan in order to accommodate the extension of a main water line through the Buckingham Community Preserve, and water service to Gulf Coast Center. The letter stated that the Conservancy

recognizes "that the availability of central water does not necessarily induce urban development if the proper regulations are in place." The Conservancy also expressed that businesses and individuals along Buckingham Road should be allowed to connect to the proposed potable water transmission line on a voluntary basis (See September 13, 2002 letter attached hereto as Exhibit E).

A more in-depth look at the requested water line extension has caused Lee County Utilities to revise the originally proposed 30" line to be a 10" line, due to available right-of-way constraints along Buckingham Road. The 10" line will provide water service to Gulf Coast Center with a surplus that allows businesses and residences along Buckingham road to connect in to the water service line on a voluntary basis. A main transmission line through the Buckingham Community Preserve may be needed in the future.

Staff notes that prohibiting the extension of potable water into the Buckingham area was a tactic originally employed by the Buckingham Community to reinforce Comprehensive Plan provisions which limit density in the rural preserve. The idea was that small lots cannot support both a septic system and a well, thus the prohibition of water and sewer infrastructure would help to limit development driven pressure to decrease minimum required lot sizes in the area.

The Buckingham Conservancy wishes to emphasize that the current request to allow water service into the Buckingham area, on a voluntary basis, should not be interpreted as a desire to facilitate urbanization of the rural preserve. The Conservancy believes that density standards currently in place are ample, no longer requiring a prohibition against water transmission lines as a reinforcing devise.

The existing prohibition against extension of sanitary sewer service to the area is still supported by the Buckingham Community as an effective tool for limiting density. Additionally, as an extension of sanitary sewer lines at this time is not financially feasible, the Conservancy requests that the limitation to sewer service be left in Objective 17.3.

Staff proposes to amend the sanitary sewer language of Objective 17.3 and the Future Sanitary Service Map 7 to indicate where existing sanitary sewer service is in place within the Buckingham Preserve: Gulf Coast Center, the Lee County Waste Energy Plant and adjacent Parks and Recreation Facility. Additionally, staff recommends that the parcel of land housing the Tice Fire Department be included in the future sanitary sewer service area.

The Tice Fire Department does not currently have sewer service, but is ideally located to tap into the existing line which serves Gulf Coast Center. The fire department fronts on Buckingham road and is surrounded on its three remaining sides by Gulf Coast Center. Connection to sanitary sewer service would be optional for the Tice Fire Department and might require revisions to the original Gulf Coast Center/Lee County Utilities interlocal agreement for sewer service. The proposed action would allow the fire department greater flexibility in meeting the demand for local fire protection, especially with regard to any necessary facility expansion at the current location.

It is the intention of the Buckingham Community to evaluate the existing Buckingham Rural Preserve Comprehensive Plan policies, during year 2004, in order to update and modify the existing policies to ensure preservation of the community's rural nature. Staff recommends that the community use that evaluation process to consider the potential long-term implications of one acre single family lots in relation to a sustainable rural character. Staff recommends that the community additionally address such upcoming issues as: on site waste treatment facilities for future residential developments; planned development regulations that would allow clustered development with larger expanses of land dedicated to rural type

uses such as hiking trails and horse trails, pasture land and stables. It is staff's opinion that removal of the prohibition against extension of potable water into the area will make large tract, planned residential development in the rural preserve more attractive to developers.

Potable water service, as compared to well, allows a larger building square footage for residences developed on parcels which have a septic system. This change in feasible building square footage is partially due to the lower permissible volume of daily waste water flow allowed when septic and well are both on a property, as compared to the daily waste water flow allowed where potable water service is in place (flow calculations are based on number of bedrooms and square footage). The change in feasible building square footage is also due to the relative ease in site design where potable water service is available, as significantly fewer septic setback considerations apply. The Buckingham Community should consider this potential result of the proposed change to Objective 17.3.

The extension water lines into the area, as allowed by this amendment, will facilitate increased efficiency and reaction time for fire protection in the Buckingham area of the Tice Fire Control District.

#### **Additional references**

***POLICY 33.1.8: The costs of new or augmented potable water infrastructure that is developed by Lee County will be borne by those who benefit from the improved supply. (Amended by Ordinance No. 94-30, 00-22)***

Potable water will be extended to the Buckingham Rural Preserve by request only. The community or entity which requests the extension will be responsible for extension and connection costs. Maintenance costs will be covered by standard monthly service fees. The interlocal agreement between the Department of Children and Family Services and Lee County Utilities specifies that Gulf Coast Center will pay for an 8" water line extension. Lee County Utilities plans to make the water line extension 10", providing additional potable water access to those along Buckingham Road who would choose to connect. Lee County Utilities has proposed this additional 2" of flow in order to make efficient use of the available right-of-way and the planned extension process.

***POLICY 33.1.9: New development will pay through appropriate financial mechanisms its fair share of the costs of providing standard potable water for that development. (Amended by Ordinance No. 00-22)***

Gulf Coast Center will pay installation costs for the water line that the facility requires for operation. The over sizing costs for an additional 2" diameter in the extension from Bird Road to Gulf Coast Center will be paid by Lee County Utilities. Future taps to that available potable water supply along Buckingham Road will be paid by the connecting party. All future extension of water into the Buckingham community will be paid for by the party requesting service.

#### **B. CONCLUSIONS**

Staff finds that the proposed changes to Objective 17.3 and Maps 6 & 7 are consistent with the intent of the Buckingham Rural Community Preserve, and the Lee County Comprehensive Plan in general. The change proposed for Map 7, Future Sanitary Sewer Service Areas, is needed to better describe the status of existing sewer service in the area. The exception to this point is the Tice Fire Department. It is staff's position that there are no negative impacts related to the addition of the fire station property to the County's



future sewer service areas. The public fire protection service is an existing use and is surrounded by Gulf Coast Center property that is connected to central sewer.

The availability of a public water supply will have several notable effects in Buckingham including potable water that is more affordable in the long-term, increased safety through improved fire protection, and the potential to increase the building size of single family homes in the area. Staff sees an additional likely consequence which is an increase in demand for single family, one acre lot, subdivision housing in the area. Staff recommends that the Buckingham community evaluate the potential for an increase in this type of bedroom community development during the next round of Buckingham amendments in 2004; and that the community consider additional incentives and regulations to promote the overall goal of sustainable rural development in the Buckingham Preserve.

### C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed amendment language as follows:

**OBJECTIVE 17.3: SEWER AND WATER.** In order to discourage unwanted urban development, central sewer ~~and water~~ lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by ~~Maps 6 and Map 7~~ as Future ~~Water and Sanitary Sewer Service Areas, the existing Resource Recovery Facility and the adjacent Lee County Parks and Recreation Facility, and to the site of the proposed resource recovery facility~~. Central water lines 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)

Additional recommended action:

Replace existing Map 6 & 7 with proposed Maps 6 & 7 attached hereto as Exhibit A. (Existing Maps 6 & 7 are attached as Exhibit B).

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

DATE OF PUBLIC HEARING: March 24, 2003

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

Planning staff gave a brief presentation of the case. One member of the LPA asked how many residences along Buckingham Road may be able to connect to the 10" water transmission line that Gulf Coast Center and Lee County Utilities have proposed. It was staff's understanding that the intended 2" oversize of the transmission line would allow most of the businesses and residences fronting along Buckingham Road to attain water service.

One member of the panel inquired about the level of public input regarding the request to allow water to be extended into the Buckingham Rural Preserve. It was staff's understanding that there was a handful of participants. Staff did not know how much information residents in the area have received about the proposed amendment.

Members of the public were invited to speak. One citizen came forward to speak on behalf of the amendment. He stated that he had been a planner for the Buckingham Preservation Committee that prepared the original Buckingham Plan. That committee has now evolved into the Buckingham Conservancy. He noted that there were 50 to 60 members on the original committee, but that number has dropped to about 15 active members, as the rest of the group felt comfortable that the issue was under control. The resident stated that the current members of the conservancy have made efforts to keep their neighbors informed.

The member of the public stated that the Buckingham Conservancy knew that a water transmission line was to be extended into the Rural Preserve in order to allow Gulf Coast Center to have potable water service. The Conservancy requested an amendment to allow residents of Buckingham Rural Preserve to attain water service as well. It did not make sense to prevent residents to have water service when a line would be running right through the community.

The resident noted that the Buckingham Community intends to bring forth proposed updates to their plan during a future LPA meeting.

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

1. **RECOMMENDATION:** The LPA recommends that the BoCC transmit CPA2002-11.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by staff.

**C. VOTE:**

<b>NOEL ANDRESS</b>	<u>AYE</u>
<b>SUSAN BROOKMAN</b>	<u>AYE</u>
<b>DAN DELISI</b>	<u>AYE</u>
<b>RONALD INGE</b>	<u>ABSENT</u>
<b>GORDON REIGELMAN</b>	<u>AYE</u>
<b>MATT BIXLER</b>	<u>AYE</u>

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

DATE OF TRANSMITTAL HEARING: June 25, 2003

- A. BOARD REVIEW:** The proposed comprehensive plan amendment was reviewed as part of the June 25, 2003 consent agenda. There were no comments or questions specific to this case.
- B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**
- 1. BOARD ACTION:** The BoCC voted to transmit the proposed comprehensive plan amendment to the Department of Community Affairs.
  - 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The BoCC accepted the findings of fact as advanced by staff and the LPA.
- C. VOTE:**

<b>JOHN ALBION</b>	<u>AYE</u>
<b>ANDREW COY</b>	<u>AYE</u>
<b>BOB JANES</b>	<u>AYE</u>
<b>RAY JUDAH</b>	<u>AYE</u>
<b>DOUG ST. CERNY</b>	<u>AYE</u>

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

DATE OF ORC REPORT: September 5, 2003

- A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS:** The DCA had no objections, recommendations, or comments concerning this amendment.
  
- B. STAFF RECOMMENDATION:** Adopt the amendment as transmitted.

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

DATE OF ADOPTION HEARING: October 23, 2003

**A. BOARD REVIEW:** The proposed comprehensive plan amendment was reviewed as part of the October 23, 2003 consent agenda. There were no comments or questions specific to this case.

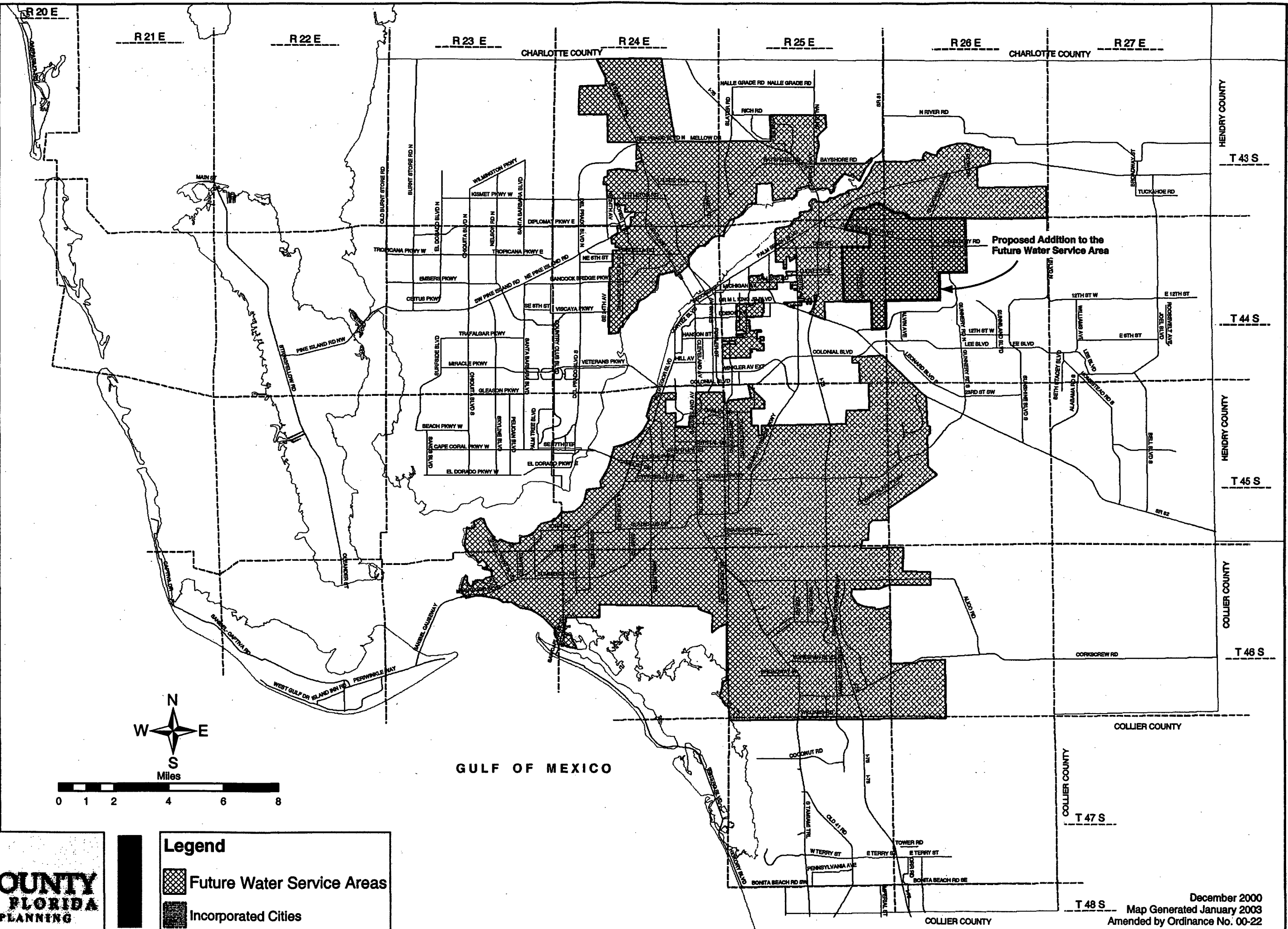
**B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:**

- 1. BOARD ACTION:** The Board voted unanimously to adopt the amendment, on a motion by Commissioner Albion and a second by Commissioner Janes.
- 2. BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact as advanced by staff.

**C. VOTE:**

<b>JOHN ALBION</b>	<b>AYE</b>
<b>ANDREW COY</b>	<b>ABSENT</b>
<b>BOB JANES</b>	<b>AYE</b>
<b>RAY JUDAH</b>	<b>AYE</b>
<b>DOUG ST. CERNY</b>	<b>AYE</b>

CPA 2002-11  
 PROPOSED LEE COUNTY UTILITIES  
 FUTURE WATER SERVICE AREAS  
 (Lee Plan Map 6)



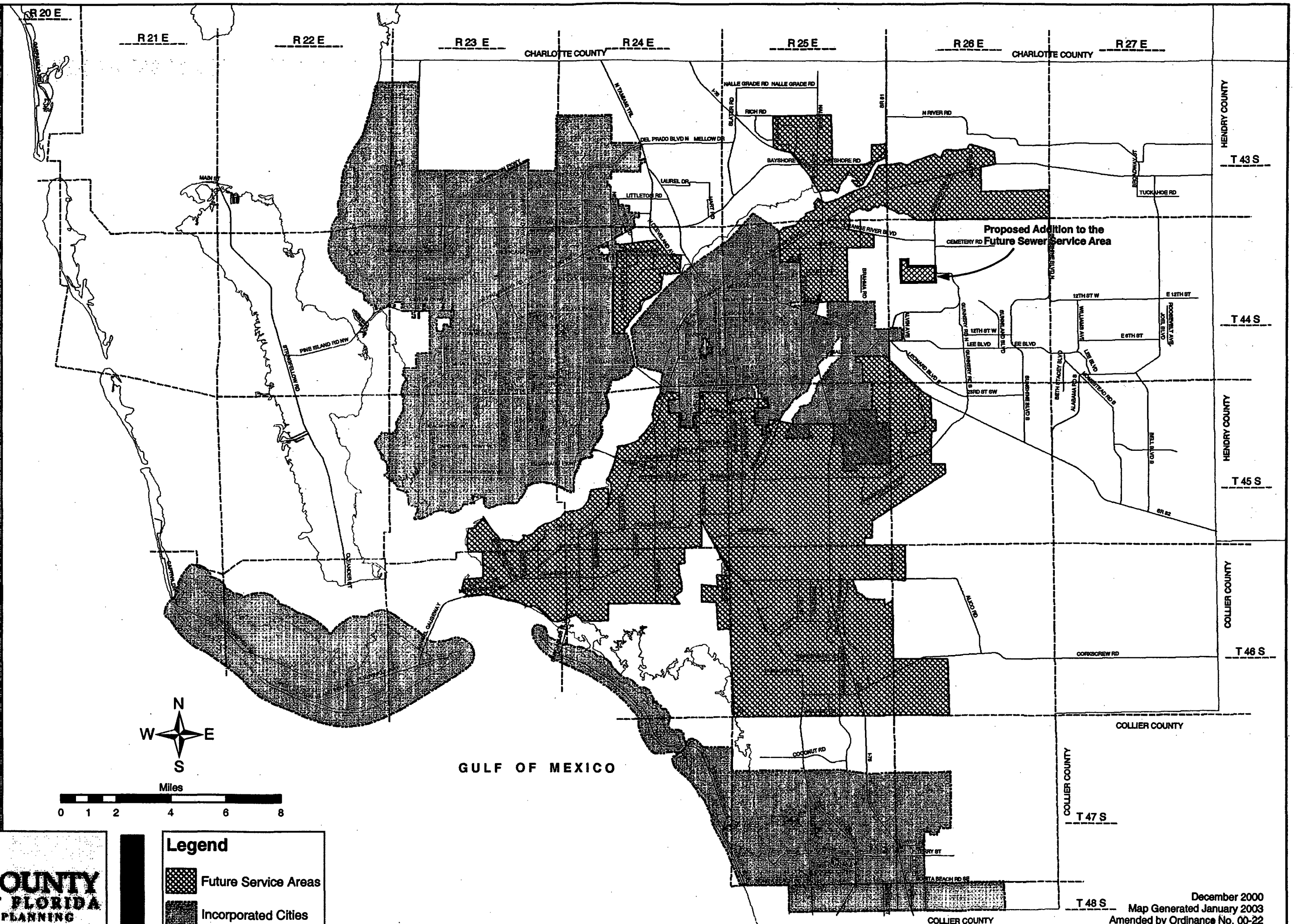
**LEE COUNTY**  
 SOUTHWEST FLORIDA  
 DIVISION OF PLANNING

**Legend**

- Future Water Service Areas
- Incorporated Cities

December 2000  
 Map Generated January 2003  
 Amended by Ordinance No. 00-22

CPA 2002-11  
 PROPOSED LEE COUNTY UTILITIES  
 FUTURE SEWER SERVICE AREAS  
 (Lee Plan Map 7)

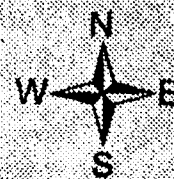


Legend	
	Future Service Areas
	Incorporated Cities

December 2000  
 Map Generated January 2003  
 Amended by Ordinance No. 00-22



(Lee Plan Map 6)



Miles



### Future Water Service Areas

### Incorporated Cities

COLLIER COUNTY

COLLIER COUNTY

**T 47 S**

T 48 S

December 2000  
Map Generated January 2003  
Amended by Ordinance No. 02-22

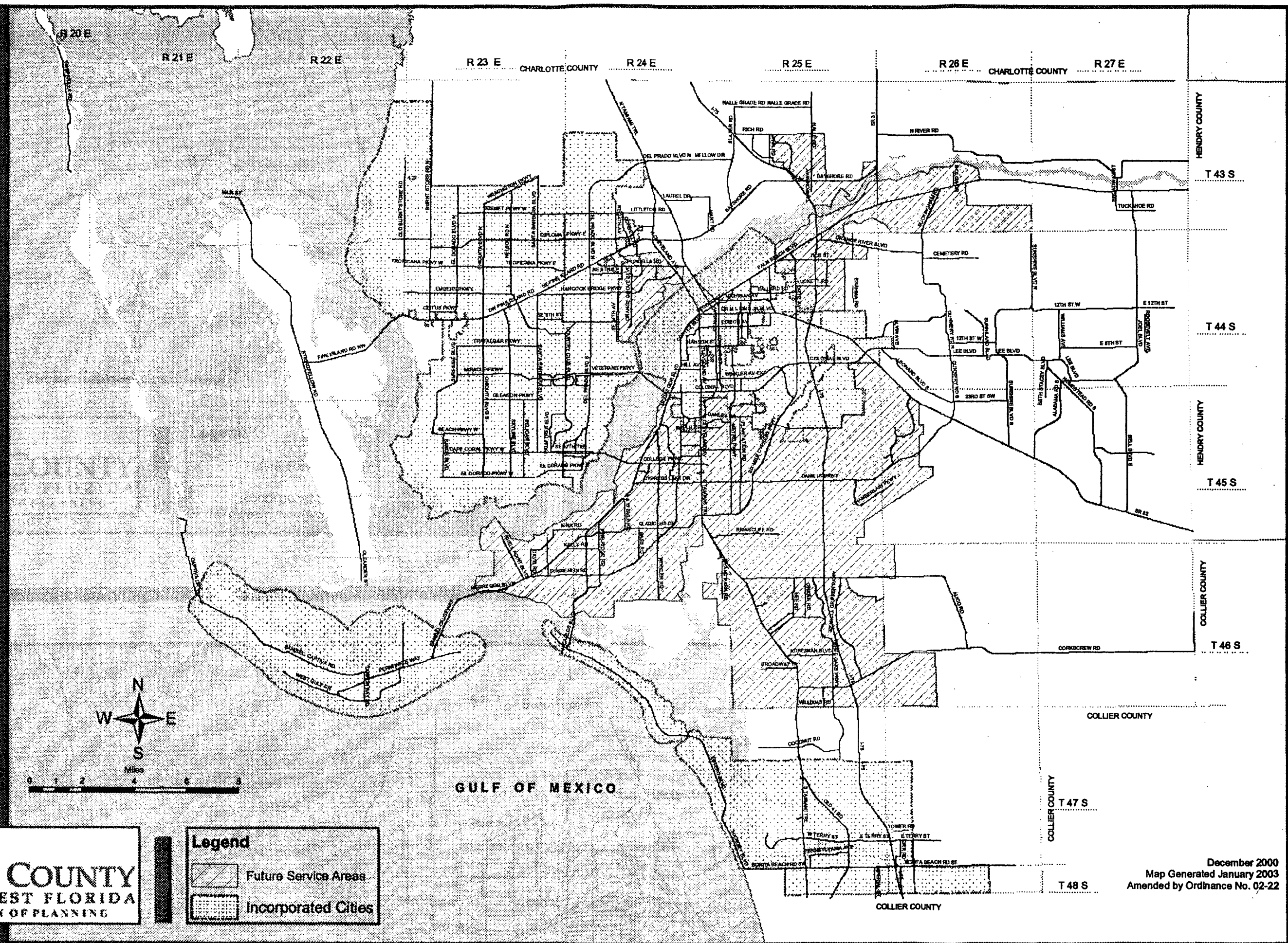
# LEE COUNTY UTILITIES FUTURE SEWER SERVICE AREAS

(Lee Plan Map 7)



**Legend**

- Future Service Areas
- Incorporated Cities



December 2000  
Map Generated January 2003  
Amended by Ordinance No. 02-22



Excerpt from Staff Report for Ordinance 91-19

BUCKINGHAM: THE PAST

Buckingham is a quiet, rural community in East Lee County, Florida. Formerly named Twelve Mile Creek, Buckingham lies twelve miles northeast of Fort Myers and is connected to Fort Myers by the Orange and Caloosahatchee Rivers. Buckingham has a rich and colorful history, and more than one hundred years have passed since its first pioneer beginnings.

During the early years, beginning around 1864, many cattlemen, including Jacob Summerlin, drove their cattle southward from north Florida for shipment to distant markets. After traveling from ten to fifteen miles per day, the cattle were kept in "scrub pens" at night. One of the stopping points along the way was at Twelve Mile Creek. From there, the cattle were moved to Fort Myers and beyond to Punta Rassa, where they were then dispersed for shipment and sale.

Around 1884-1885, an early pioneer named Edward Marshall Williams moved to Lee County with his wife. They were from Bucks County, Pennsylvania. After settling at Twelve Mile Creek, the family grew citrus and vegetables, and raised cattle. In 1889, Williams called his homesite Buckingham, because the government had objected to the name of Twelve Mile Creek. The name either originated from Bucks County, or from Buckingham Smith, a nineteenth-century Federal Reclamation Commissioner and historian.

The original Twelve Mile Creek school was organized in 1883. Mr. F. J. Wilson had been holding private classes in a corn crib near his house. Land for a school was deeded by Mr. Wilson to Monroe County in 1886 with the restriction that the property be used only for school or community purposes. The first schoolhouse was a small log cabin built in 1886, and the first teacher actually began work in December of 1887. (Lee County was created from Monroe County in 1887.) The existing Buckingham Community Center--listed with the National Register of Historic Places--was constructed on the same site in 1895 and served as the second school house for the residents of Buckingham. Today, the 95 year old Community Center is an active community meeting place located in the heart of Buckingham.

Toward the end of the century, more and more families came to farm and operate cattle ranches. By 1890, Buckingham was a regular stop on the mail boat route. Large supplies of timber were coming from the woods throughout Buckingham. Later, the depression slowed growth in Lee County until the war years. By 1939, the population of Buckingham was approximately 100 people and citrus groves surrounded area homes, but 1942 was a year that would bring about a lasting change to the rural community.

Two months after the Japanese bombed Pearl Harbor, the Army Air Corps met with Lee County Commission Chairman Harry Stringfellow and Fort Myers Mayor Sam Fitzsimmons to discuss the formation of

a flexible gunnery school in the Buckingham area. In addition to Page Field airport in Fort Myers, land in Buckingham was set aside for a facility that would train men to handle the .50 caliber turret or waist guns. In March of 1942, 650 men arrived to begin building the facility which included a fire station, dental clinic, and temporary housing for base men. At its peak, the facility housed 16,000 men. This influx of Army personnel and their families had a major impact on Lee County's economy. Shortly after Germany surrendered on May 7, 1945, Buckingham Army Air Field was deactivated; buildings were torn down and airmen were shipped out. Still present today are the reminders of this exciting past: although overgrown with brush, concrete foundations can be found all over Buckingham fields. The Buckingham Army Airfield runways now house the Lee County Mosquito Control squadron.

Buckingham Cemetery on Cemetery Road is one of the oldest cemeteries in Lee County. Members of pioneer families rest there, along with veterans of every war to the present day. This cemetery is another of Buckingham's oldest landmarks. A longtime establishment is the Buckingham Store, a general store in the central Buckingham area where residents meet and have met for years. There has been some kind of general store in the same location since the turn of the century.

Today, the quiet, rural community of Buckingham has much of the same "Old Florida" character that it had years ago. Citrus

groves, large gardens, pastureland with horses and cattle all abound in an area that has been agriculturally zoned since land use regulations were first established in Lee County. Wildlife such as the black bear, bobcat, wild hog, wild turkey, eagle, and stork is abundant. There are approximately 930 homes in the greater Buckingham community, and most of these homes are of a rural ranch style -- diverse in character, yet fitting to the acreage they are built upon, surrounded by live oak, sabal palm, and slash pine trees. Lee County can be proud of this historically important and peaceful country neighborhood in the eastern portion of the county.



Jeb Bush  
Governor

Jerry Regler  
Secretary

February 20, 2003

David M. Owen  
Chief Assistant County Attorney  
Lee County Attorney's Office  
2115 Second Street  
Fort Myers, FL 33901

03 FEB 24 PM 12:40  
RECEIVED BY  
LEE CO. ATTORNEY

**RE: Final Amendment No. 1 to Interlocal Agreement between the Florida Department of Children and Family Services and Lee County, Florida**

Dear Mr. Owen:

Enclosed please find four originals of the Final Amendment No. 1 to our Interlocal Agreement for the County to execute.

I believe it contains all of the revisions and represents everyone's hard work over the last 2 years.

Please proceed to schedule same for Board of County Commissioners' approval. Once the Board approves the documents, please provide them to me for State execution. A fully executed document will then be returned to you as requested.

It has been a great experience and pleasure working with you and representatives of the Lee County Utilities on this project.

Sincerely,

Sharon A. Kaskle  
Legal Counsel to Gulf Coast Center

Enclosure

Cc: Nora S. Brake, Gulf Coast Center Superintendent  
G. Scot Anderson, Maintenance and Construction Superintendent  
Patrick J. Day, Project Manager, TKW Consulting Engineers  
Terry Knepper, Professional Engineer III  
Rick Diaz

Gulf Coast Center  
5820 Buckingham Road Fort Myers, FL 33905

The Department of Children and Families is committed to working in partnership with local communities to ensure safety, well-being and self-sufficiency for the people we serve.

EXHIBIT D

**AMENDMENT NO. 1 TO INTERLOCAL AGREEMENT**  
**BETWEEN THE FLORIDA DEPARTMENT OF CHILDREN AND FAMILY**  
**SERVICES AND LEE COUNTY, FLORIDA**

This Amendment is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by and between the State of Florida by and through the Department of Children and Family Services, formerly known as the Department of Health and Rehabilitative Services (HRS), and Lee County, a political subdivision of the State of Florida, "County".

**WITNESSETH:**

Whereas, the Department of Children and Family Services operates the Gulf Coast Center, a residential facility for the mentally and physically impaired in the rural Buckingham community of east Lee County; and,

Whereas, on April 19, 1995, the Department of Children and Family Services and the County entered into an Interlocal Agreement for the provision of sewer service to Gulf Coast Center; and,

Whereas, the on-site water treatment plant at Gulf Coast Center is obsolete and in need of imminent replacement; and,

Whereas, the Division of Lee County Utilities currently operates a central water system in east Lee County that has sufficient excess capacity available to permit supply of potable water to Gulf Coast Center; and,

Whereas, in an attempt to continue to avoid introducing urban sprawl into the Buckingham area, the Lee County Comprehensive Plan (the Lee Plan), through its Objective 17.3 (formerly 19.4 in the Lee Plan) does not presently allow central water service to be provided in the "Rural Community Preserve" land-use category in Buckingham, which surrounds Gulf Coast Center; and,

Whereas, although the County will continue to designate the land of Gulf Coast Center in the "Public Facilities" land-use category and not in the "Rural Community Preserve" land-use category, potable water service provided to Gulf Coast Center by the County will not result in the providing of central water service elsewhere in the "Rural Community Preserve" land-use category; and,



Whereas, the County has adopted Resolution No. \_\_\_\_\_ on \_\_\_\_\_ (Exhibit A), acknowledging the above-stated circumstances; agreeing to allow the construction of an off-site water transmission main within the 30-foot wide easement previously purchased by the State through the Buckingham Preserve under the Original Interlocal Agreement to allow connection and service through its utility system to Gulf Coast Center; and agreeing to ensure that this service is provided in a manner consistent with the Lee Plan by conditioning these approvals with specific requirements to be mutually agreed upon in this Amendment to the original Interlocal Agreement for so long as the present "Rural Community Preserve" restrictions in the Lee County Comprehensive Plan apply.

**NOW THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES AND THE COUNTY DO HEREBY AGREE AS FOLLOWS:**

- (1) The Department of Children and Family Services shall design and construct a potable water main connection from Gulf Coast Center northward, within the existing Buckingham Road right-of-way, acquired under the original Interlocal Agreement, to tie into the County's existing potable water system near Buckingham Exceptional Learning Center.
- (2) The Department of Children and Family Services will extend a 10-inch water main north from the Gulf Coast Center campus to its connection point with the County's existing 10-inch potable water main near Buckingham Exceptional Learning Center. The County agrees to pay the cost difference associated with installing a 10-inch instead of an 8-inch water main between the northern border of the "Rural Community Preserve" area of Buckingham near Bird Road south to the Gulf Coast Center campus' connection point.
- (3) The potable water main shall meet all applicable state and County requirements and specifications and shall be so certified by the design engineer retained by the Department of Children and Family Services.
- (4) The Department of Children and Family Services shall design and construct one fire hydrant located at the entrance to Gulf Coast Center and four fire hydrants along the proposed water main, north of Bird Road, that is located outside of the "Rural Community Preserve" area of Buckingham. The cost of these fire hydrants will be the financial responsibility of the Department of Children and Family Services. No fire

hydrants are to be constructed in the "Rural Community Preserve" area of Buckingham except for the fire hydrant at the entrance to Gulf Coast Center referenced above. Should the County subsequently elect to provide fire hydrants within the "Rural Community Preserve" area of Buckingham, the County shall be responsible for all design, permitting, construction and other related costs associated with their provision.

- (5) The potable water main within the "Rural Community Preserve" area of Buckingham shall remain the property of the Department of Children and Family Services or its successor agency. At such time that the comprehensive plan restrictions prohibiting County ownership of utilities within the "Rural Community Preserve" area of Buckingham are rescinded, the County will assume ownership of the potable water main, force main and pumping station within the Buckingham Rural Preserve after sufficient notice to Gulf Coast Center and execution of an appropriate legal instrument transferring ownership and executed by the parties hereto. The potable water main outside of the "Rural Community Preserve" area of Buckingham shall be dedicated and contributed to the County by the Department of Children and Family Services.
- (6) The County shall allow the connection of the potable water main to the County's water transmission and distribution system operated by the Division of Lee County Utilities in exchange and in consideration for the covenants contained in the County's standard connection agreement, and the payment of a one-time connection fee of \$25,500.00 (four-inch meter fee). The County will invoice the Department of Children and Family Services for the full amount of this connection fee when the application for a Limited Review of a Development Order Type II, along with a binding letter of agreement to connect is submitted for signature to the County.
- (7) The County hereby agrees to operate and maintain the Department of Children and Family Services' portion of the potable water main at no additional cost beyond the water rates to be paid by Gulf Coast Center. Operation and maintenance services shall include the labor and equipment necessary to perform normal maintenance and to make emergency repairs to the Department of Children and Family Services' portion of the potable water transmission line. Facilities include, but are not limited to: the Department of

Children and Family Services' portion of the potable water transmission main; gate, butterfly, air release/vacuum or other installed valving and appurtenances; fire hydrants; water meter; and any telemetry and control systems (if installed).

- (8) The County shall provide a four-inch water meter for determining the water usage by Gulf Coast Center at a cost of \$1,976.47. The Department of Children and Family Services will install the four-inch meter for Gulf Coast Center. The meter shall be located within Gulf Coast Center property, near Buckingham Road. The meter shall be placed within a utility easement granted to the County so it is accessible to Division of Lee County Utilities' personnel, or personnel of a firm retained by Lee County Utilities to "read" meters. The County reserves the right to inspect and test the flows from the meter at any reasonable time, and will coordinate notice with appropriate Gulf Coast Center staff. Meter and other components of meter assembly shall meet all applicable County requirements and specifications. The total water flow recorded by the water meter shall be recorded by Lee County Utilities once each month.

- (9) Paragraph (9) of the original Interlocal Agreement is hereby replaced by the following:

"Gulf Coast Center shall pay a monthly water and wastewater charge based on water flow recorded by the water meter provided under paragraph (8). The County shall charge Gulf Coast Center, at the appropriate County wholesale service rates established in Lee County Resolution No. 02-07-44 Utilities Rates Resolution of July 9, 2002 as it may be revised from time to time by the County for both potable water service and wastewater service (based on the metered quantity of potable water used). Any potable water used for irrigation purposes by Gulf Coast Center and metered separately may be deducted from the amount used to determine the monthly wastewater charge. The County may adjust its county-wide charges in the same manner as rate adjustments are made for other customers. Any proposal for a change in rates to be charged exclusively to the Gulf Coast Center shall be noticed to Gulf Coast Center consistent with the County's policy for such notification for rate adjustments. The County shall submit a monthly invoice to Gulf Coast Center for these utility charges, with mailing of the invoice by the County to be prior to the 15<sup>th</sup> of the month following the month of use. Payment will be made to the County before the 30<sup>th</sup> of the month of billing."

- (10) Potable water provided by Lee County Utilities shall meet all applicable drinking water standards and requirements of the U.S. Environmental Protection Agency, State of Florida Department of Environmental Protection, Florida Department of Health (FDOH) and the County. The chlorine residual at the water meter shall not be less than the minimums allowed by the above named agencies, nor shall it exceed their maximums. The water residual pressure at the water meter shall not be less than 20 pounds per square inch, gage pressure (psig) under peak usage conditions, including fire flow demands. The full design capacity of the water and sewer mains will be available to provide potable water to and process sewage from Gulf Coast Center. Should capacity to provide Gulf Coast Center's maximum day potable water demand of 0.288 MGD or process Gulf Coast Center's 0.11 MGD annual average sewage flow not be available when needed because of commitment of capacity to others by the County, the County hereby agrees to provide the additional capacity to Gulf Coast Center up to the 0.288 MGD potable water demand or 0.11 MGD sewage flow at no additional capital cost to Gulf Coast Center.
- (11) The Department of Children and Family Services and the County shall prohibit other connections to this potable water main by any other potential potable water customer(s) whose property that may be served lies within the Lee Plan's "Rural Community Preserve" land-use category area of Buckingham for so long as the "Rural Community Preserve" restrictions in the Lee County Comprehensive Plan apply.
- (12) The Department of Children and Family Services shall pay a cash penalty of up to \$500.00 per day to the County for each violation, and until such violation is abated, should the Department of Children and Family Services knowingly allow any violations of paragraph (11) above to occur. The County Manager may levy such penalties after considering the recommendation of the Division of Lee County Utilities. These penalties are payable subject to a specific appropriation of the State Legislature. These penalties may be appealed to the Board of County Commissioners, who shall have final authority in levying any such penalties.
- (13) Until such time as ownership is transferred to the County, the Department of Children and Family Services shall provide for any future relocations of the Department of Children and Family Services' portion of the potable water main solely at its expense should it

be required by subsequent roadway or drainage work. The County agrees to provide reasonable notice to the Department of Children and Family Services of any pending roadway or drainage work, so that the Department of Children and Family Services can arrange for the necessary funding. This notice shall be in the form of a letter to the Department of Children and Family Services, to the Staff Director of General Services in Tallahassee, Florida referencing this Amendment, describing the nature and timing of such work, and providing a cost estimate for the utility relocation. This notice shall allow the Department of Children and Family Services up to two (2) fiscal years to obtain the funds needed to comply with this paragraph.

- (14) The Department of Children and Family Services shall comply with all Lee County permitting requirements prior to construction of the potable water main, including but not limited to: the obtaining of all necessary and required development orders and permits to work within the public rights-of-way, and real property acquired under the original Interlocal Agreement. Gulf Coast Center shall comply with any and all reasonable County ordinances regarding cross connection control and sewage pretreatment, including those adopted in the future in response to mandatory regulatory requirements.
- (15) The County will obtain and maintain in good standing all necessary operating licenses and permits required by appropriate Federal and State agencies, and local governments to operate the County's treatment plants and transmission facilities. The County will furnish all personnel, materials and supplies necessary to operate the treatment plants and transmission facilities in public rights-of-way or dedicated easements, and to maintain them in first-class condition in accordance with applicable regulatory standards.
- (16) In accordance with Section 255.2502, Florida Statutes, the State of Florida's performance and obligation to pay under the original Interlocal Agreement, and this amendment thereto, is contingent upon an annual appropriation by the Legislature. This provision shall not be amended, supplemented, or waived. Any provision in the original Interlocal Agreement, and this Amendment thereto, in violation of this section shall be null and void. Recognizing that the County has

certain bond covenants, operating costs and other financial obligations, it is agreed that failure of the Department of Children and Family Services or Gulf Coast Center to pay the fees as outlined in the original Interlocal Agreement and this Amendment thereto shall constitute grounds for the County to immediately discontinue water and wastewater service to Gulf Coast Center following written notice to the Department of Children and Family Services and Gulf Coast Center for non-payment of the County's water or wastewater charges, per the County's policies.

- (17) The County shall allow public access to all documents, papers, letters, or other material subject to the provisions of Florida Statutes, Chapter 119. The Department of Children and Family Services may cancel the original Interlocal Agreement and this Amendment thereto for refusal by the County to allow such public access to materials subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County in conjunction with the original Interlocal Agreement and this Amendment thereto.
- (18) Claims against the County, the Department of Children and Family Services or Gulf Coast Center resulting from any disagreement between the parties arising from the original Interlocal Agreement or this Amendment thereto may be resolved according to an alternative dispute resolution procedure agreed upon between the parties or as provided by law.
- (19) It is understood and agreed that in each and every respect the terms of the original Interlocal Agreement, except as amended herein, shall remain unchanged and in full force and effect and the same are hereby ratified, approved and confirmed by the parties hereto. No amendments to the original Interlocal Agreement or this Amendment thereto shall be valid or enforceable unless in writing and executed by duly authorized representatives of the parties with the same degree of formality followed by the parties in entering into and executing this Amendment.
- (20) By execution of this Amendment, neither party waives nor modifies in any manner its rights of sovereign immunity nor the limitations of liability as may be provided for by law from time to time.

IN WITNESS OF THIS AMENDMENT, the undersigned parties hereby affix the signatures of their duly authorized representatives.

ATTEST: CHARLIE GREEN  
CLERK OF COURT

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_

Chairman

Approved as to Form & Legality:

By: \_\_\_\_\_  
Office of the County Attorney

ATTEST: STATE OF FLORIDA, DEPARTMENT OF  
CHILDREN AND FAMILY SERVICES

By: \_\_\_\_\_  
NORA STARR BRAKE  
Superintendent,  
Gulf Coast Center

By: \_\_\_\_\_  
WAYNE R. CLOTFELTER  
Staff Director, General Services  
Department of Children and Family  
Services

Approved as to Form & Legality:

By: \_\_\_\_\_  
SHARON A. KASKIE  
Department of Children and Family  
Services Legal Counsel

To: M. Noble



## **BUCKINGHAM CONSERVANCY, INC.**

**A Florida Non-Profit Corporation**

**4931 Shady River Lane, Fort Myers, Florida 33905**

**September 13, 2002**

**Mr. Paul O'Connor  
Director of Planning  
Lee County Department of Community Development  
P.O. Box 898  
Fort Myers, FL 33902**

**RE: Buckingham Plan**

**Dear Paul:**

On Wednesday, September 11, 2002 the Board of Directors of the Buckingham Conservancy met to discuss the meeting that was held on September 6, 2002 between you, representatives from the Gulf Coast Center, County Utility Department, representatives from the County Attorney's office, and Directors of the Buckingham Conservancy. The purpose of that meeting was to consider the proposal to extend a new water line to the Gulf Coast Center to relieve them of the financial burden of maintaining their on-site water treatment system, as well as a new proposal by the Utility Department to extend a transmission line down Buckingham Rd.

The Buckingham Conservancy understands and sympathizes with the unique financial and human needs of the Gulf Coast Center. For that reason, we acquiesced to an emergency agreement to allow the extension of a sewer line to serve only the Gulf Coast Center approximately three years ago, even though that extension would appear to be in violation of Objective 17.3 of the Lee Plan. There were clear public cost and health considerations for that agreement, and the wording of it restricted its availability to only the Gulf Coast Center, thus complying with the spirit of Objective 17.3 to discourage unwanted urban development.

The original proposal to extend a small water line to the Gulf Coast Center was provided with the same justification and restrictions, but we have concerns regarding the implications of extending a larger water transmission main through the heart of Buckingham and its impact on future development in the area. The County Utility Department has a need to serve the rapidly growing area south of SR 82, and with a new water plant contemplated in the vicinity of the FPL facility, we appreciate that the shortest distance between two points is a straight line. We also recognize that the availability of central water does not necessarily induce urban development if the proper regulations are in place.

**PRESIDENT  
Chris Bundschu  
693-1000**

**VICEPRESIDENT  
Hill Burdette  
936-1404**

**TREASURER/SECRETARY  
Betsy Burdette  
694-4738**

### **DIRECTORS**

**Don Blackburn  
931-9171**

**Sarah Clarke  
694-6261**

**Pam Houck  
694-0895**

**George Kaplinski  
694-6261**

**Mike Rippe  
694-0451**

**Bruce Strayhorn  
334-1269**

**Dick Workman  
694-0101**

**EXHIBIT E**



Mr. Paul O'Connor  
September 18, 2002  
Page 2

If a water transmission line is constructed along Buckingham Rd., there will be businesses, churches and individuals who will want to take advantage of that source of municipal water. If we allow this water transmission capacity, we don't want the Buckingham Plan to prevent our citizens access to this amenity. At the same time, we are certain that no one in Buckingham wants to be required to hook into central water service or be assessed for that improvement. For all these reasons, if the County wants to construct this water transmission line, the Buckingham Conservancy believes that it is imperative that the County quickly sponsor an amendment to the Buckingham Plan that addresses these issues in the upcoming round of plan amendments.

We would suggest that the County sponsor new language for Objective 17.3 similar to:

**OBJECTIVE 17.3: SEWER AND WATER.** In order to discourage unwanted urban development, central sewer shall not be extended into the Buckingham Rural Community Preserve except for the existing line that serves the Gulf Coast Center, which is intended strictly for its use. Central water service can be made available by Lee County Utilities, but no resident or business in the Buckingham area can be required to hook into such central water systems. Under no circumstances will the availability of central water be accepted as a justification for a density increase in the Land Use Plan.

If the County will quickly sponsor such an amendment in the upcoming round of amendments, the Buckingham Conservancy would support it, with the understanding that we may seek funding for an update of the Buckingham Plan next year to address the new issues that have arisen in the ten years since the Plan was first adopted. There is now a proposal for a major public school (K-12) in Buckingham, as well as the new merchant power plant on land that was formerly within the Buckingham Rural Preserve and is now within the City of Fort Myers municipal boundaries.

If the County does not submit a formal amendment to the Buckingham Plan to address the water line issue, then the Buckingham Conservancy would object that the construction of a water transmission line would be a violation of Objective 17.3 of the Lee Plan and Chapter 163 of the Florida Statutes.

We don't think it is good public policy to proceed with this major utility improvement without a formal amendment to the Buckingham Plan, which addresses these issues.

Thank you very much for your assistance with this important problem. Please let me know as quickly as possible how Lee County intends to proceed.

Very truly yours,



Chris Bundschu, President  
Buckingham Conservancy

cc: Directors of the Buckingham Conservancy  
Mary Gibbs  
Tim Jones  
David Owen  
Rick Diaz

# Memorandum

**To: Members of Lee County LPA**

**From: Nichole Dishman, Division of Planning**

**Date: March 18, 2003**

**RE: CPA2002-00011**

Due to some new information regarding current legal descriptions of the sewer and water franchise areas which cover the Buckingham Rural Preserve, proposed Maps 6 & 7 were not included in the original staff report for this project. The proposed maps will be handed out at the LPA meeting this Monday, March 24<sup>th</sup>.

During our work on the proposed maps, staff has determined that the proposed language for Objective 17.3 should be modified in order to more succinctly describe the requested action. None of the language modifications are substantive in nature. The following proposed language is intended to supersede language proposed by the February 17, 2003 Staff Report:

**OBJECTIVE 17.3: SEWER AND WATER.** In order to discourage unwanted urban development, central sewer and water lines will not be extended into the Buckingham Rural Community Preserve, except in the areas identified by Maps 6 and Map 7 as Future Water and Sanitary Sewer Service Areas, the existing Resource Recovery Facility and the adjacent Lee County Parks and Recreation Facility, and to the site of the proposed resource recovery facility. Central water lines 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)

**Changes to Map 6, Lee County Utilities Future Water Service Areas:**

Map 6 will be amended to show all areas of the Buckingham Rural Community Preserve which are included in the Lee County Franchise Area to be within the Lee County Utilities Future Water Services Area.

**Changes to Map 7, Lee County Utilities Future Sewer Service Areas:**

Map 7 will be amended to include Gulf Coast Center and the Tice Fire Department within the Lee County Utilities Future Sewer Service Areas. Gulf Coast Center currently has sewer service through an interlocal agreement with Lee County Utilities. The Tice Fire Department property is encapsulated by Gulf Coast Center property.

Thank you for your attention to this matter.