

**LEE COUNTY**

SOUTHWEST FLORIDA

PLANNING DIVISION

M E M O R A N D U M

to: Board of County Commissioners

from: *Paul C. Connor, AICP, Director*
Paul C. Connor, AICP, Director, Division of Planning

subject: Lee County's 2000/2001 Regular Comprehensive Plan Amendment Cycle

date: December 21, 2001

Attached are the agenda and a portion of the staff reports for the public hearing to be held beginning at 9:30 A.M. on Thursday, January 10th, 2001. This is an adoption hearing for the 2000/2001 Comprehensive Plan Amendment Cycle. The Board of County Commissioners transmitted the 2000/2001 Lee Plan amendments to the State for review on September 12, 2001. The Department of Community Affairs (DCA) issued its Objections, Recommendations and Comments (ORC) Report on November 21, 2001. The DCA did not pose any objections, recommendations, or comments on 22 of the 24 transmitted amendments. The two amendments that were objected to were PAM 98-06 and CPA2000-02.

The DCA offered objections to PAM 98-06, which is a privately-initiated request to amend the Future Land Use Map series for a portion of a specified parcel of land located in Section 20, Township 46 South, Range 25 East to change the classification shown on Map 1, the Future Land Use Map, from "Rural" to "Outlying Suburban," and also, to amend Lee Plan Policy 1.1.6 and Table 1(a), Note 6. This amendment has been placed on the Administrative Agenda. Staff is still working with the applicant in their efforts to respond to the objections of DCA, although staff has not received any new information as of this writing that would change the original staff recommendation. The staff report and applicant's response to the objections of the DCA will be provided to the BoCC under a separate cover next week.

The DCA also offered an objection to CPA2000-00002, which is a privately-initiated amendment to amend Goal 15, Gasparilla Island, to limit commercial and industrial uses within those portions of the Boca Bay Community that contain the Port District zoning designation. Staff is currently working with representatives from DCA and the applicant to resolve this issue, and anticipates that the outstanding issues will be resolved to the satisfaction of the DCA. The staff report and response to DCA's objections will be provided to the BoCC under a separate cover next week.

Three other amendments have been revised to reflect recent updates that have occurred since the transmittal hearing. One of these, CPA2000-00019, is the amendment addressing the Estero Community Planning Effort. Representatives of the Estero Community Planning Panel submitted several proposed modifications to the transmittal language on December 21, 2001. Staff is still reviewing these modifications and will provide recommendations on them as part of the adoption staff report. The staff report for this amendment will be provided to the BoCC under a separate cover next week.

Another amendment that will require modification between the transmittal hearing and the adoption hearing is CPA2000-00027, which proposes to update the Capital Improvements Program (CIP) in

the Lee Plan. Planning staff will be receiving the latest CIP from Budget Services staff, and will incorporate this document into the Lee Plan. The staff report for this amendment will be provided to the BoCC under a separate cover next week.

The final amendment that might require modification from the transmittal stage is CPA2000-00015, which proposes to modify setbacks for golf course maintenance facilities from public roadways and adjacent residential properties in the Density Reduction/Groundwater Resource areas. Staff is still finalizing its recommendation on this amendment. The staff report and final recommendation will be provided to the BoCC under a separate cover next week.

Other than these 5 amendments that will require modifications as noted above, the remaining documents were simply updated to reflect that there were no objections, recommendations, or comments by the DCA. As stated previously, the staff reports and other background materials for these 5 amendments will be provided to the Board next week, and should be added to the materials received with this correspondence.

If you have any questions regarding the adoption hearing, do not hesitate to call me at 479-8309.

cc: *Donald Stilwell, County Administrator*
 Mary Gibbs, Director, Department of Community Development
 Minutes
 Lee Cares
 Tim Jones, Assistant County Attorney
 Janet Watermeier, Director, Economic Development
 Dave Loveland, DOT
 Diana Parker, County Hearing Examiner

**CPA2000-22
BoCC SPONSORED
AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Public Hearing Document
for the
January 10th Adoption Hearing

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

November 21, 2001

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
CPA2000-22**

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Text Amendment

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Map Amendment

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

STAFF REPORT PREPARATION DATE: June 18, 2001

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:

Evaluate adding a Watershed Management Plan Policy for the Caloosahatchee River.

B. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY:

1. REVISED RECOMMENDATION: Planning staff recommends that the Board of County Commissioners transmit the following Policy supporting the proposed amendment:

POLICY 78.1.6: Lee County encourages the on-going efforts by the SFWMD in establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River that recognizes public, environmental and agricultural uses of the river through participation in the Southwest Florida Feasibility Study, Lower East Coast and Lower West Coast Regional Water Supply Plans, Caloosahatchee Study, Minimum Flows and Levels, and the development of maximum flows and discretionary release protocols for Lake Okeechobee.

2. ORIGINAL RECOMMENDATION:

POLICY 78.1.6: Lee County encourages the on-going efforts by the SFWMD in establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River that recognizes public, environmental and agricultural uses of the river through participation in the Southwest Florida Feasibility Study, Lower East Coast and Lower West Coast Regional Water Supply Plans, Caloosahatchee Study, Minimum Flows and Levels, and the development of discretionary release protocols for Lake Okeechobee.

3. BASIS AND RECOMMENDED FINDINGS OF FACT:

- The South Florida Water Management District is the delegating entity over Southwest Florida's waterways, per Florida Statute 373.016.
- The South Florida Water Management District is currently establishing a water management plan for the Caloosahatchee River.
- The proposed Policy supports the South Florida Water Management District's efforts.
- The proposed Policy should be appropriately placed under Goal 78, Estuarine Water Quality, of the Conservation and Coastal Management element of the Lee Plan.

C. BACKGROUND INFORMATION

This amendment was initiated by the Board of County Commissioners on September 19, 2000. The amendment stems from a suggested improvement to the Lee Plan by an LPA member. This issue was brought up during a public hearing in which the upcoming amendment cycle was being discussed and suggestions taken. The proposal was for staff to evaluate adding a watershed management plan Policy for the Caloosahatchee River.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

The South Florida Water Management District is currently establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River through the implementation of several studies and plans. The participating studies and plans include the Southwest Florida Feasibility Study, the Lower East Coast and Lower West Coast Regional Water Supply Plans, the Caloosahatchee Study, and Minimum Flows and Levels.

The South Florida Water Management District is the delegating entity over South West Florida's waters per 373.016, F.S., Declaration of Policy. The statute, under 373.016(1), provides that "The waters in the state are among its basic resources." The statute provides, under 373.016(2), "The department and the governing board shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability." The statute continues, under 373.016(5) "The department may exercise any power herein authorized to be exercised by a water management district; however, to the greatest extent practicable, such power should be delegated to the governing board of a water management district." For the purpose of the subject statute Chapter 373 defines the "department" as the Department

of Environmental Protection and the "governing board" as the governing board of a water management district.

Under this chapter 373.036, F.S. provides for district water management plans and provides governing boards with the authority to restrict future uses on designated bodies of water consistent with the statute's objectives. In addition the statute gives the authority to designate certain uses (in connection with a particular source of supply) which would constitute an undesirable use for which the governing board can deny a permit. The statute requires each governing board to develop a district water management plan for the water resources within its region based on a 20-year planning period. The plan is required to include methodologies for establishing minimum flows and levels, the identification of water supply planning regions within the district, technical data, and a district wide water supply assessment determining for each region existing legal uses, future needs, and anticipated sources of water and conservation efforts. The plan is also required to include if such sources and conservation efforts are adequate to supply water for all legal uses and future needs.

Staff has evaluated the proposed amendment and coordinated with the Lee County Division of Natural Resources regarding the proposed language. Both Natural Resources staff and Planning staff concur that the proposed Policy should be adopted into the Lee Plan supporting the South Florida Water Management District in establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River.

Goal 78, Estuarine Water Quality, and its Objectives and Policies address the management of estuarine systems water quality, wildlife diversity, productivity, and best use. Goal 78, Objective 78.1, and the policies that follow are reproduced below:

GOAL 78: ESTUARINE WATER QUALITY. *To manage estuarine ecosystems so as to maintain or improve water quality and wildlife diversity; to reduce or maintain current pollution loading and system imbalances in order to conserve estuarine productivity; and to provide the best use of estuarine areas. (Amended by Ordinance No. 94-30)*

OBJECTIVE 78.1: WATER QUALITY MONITORING. *Establish baseline conditions in all estuarine systems, including pollutant and freshwater loadings by 2000, and maintain an ongoing water quality monitoring program. Maintain communication with other local, state, and federal estuarine water quality studies to ensure that the latest data and recommendations are available. (Amended by Ordinance No. 94-30)*

POLICY 78.1.1: *The Lee County Division of Natural Resources Management (or its successor) will monitor estuarine water quality and be responsible for:*

1. *Setting up and operating a network of water quality sampling sites to fill in gaps in the state sampling program, especially in Estero Bay.*
2. *Maintaining liaison with other local, state, and federal agencies engaged in water quality monitoring, and reviewing their data, conclusions, and recommendations.*
3. *Developing a system for reporting on water quality conditions and trends on a regular basis.*
4. *Recommending actions that are intended to maintain or improve water quality in the estuaries to meet the Department of Environmental Protection's criteria for the appropriate class water body and preserve the "approved for shellfish harvesting" classification where applicable, while attempting to return viable "closed" (due to water quality) shellfishing areas to an "approved" status.*

(Amended by Ordinance No. 94-30, 00-22)

POLICY 78.1.2: *Development affecting coastal and estuarine water resources must maintain or enhance the biological and economic productivity of these resources. (Amended by Ordinance No. 00-22)*

POLICY 78.1.3: *The county will cooperate with the South Florida Water Management District, local utilities, and other appropriate agencies for monitoring and review of freshwater discharge affecting estuarine areas, in order to maintain the biological and chemical balances necessary for optimum productivity. (Amended by Ordinance No. 00-22)*

POLICY 78.1.4: *The county will cooperate with the Florida Marine Patrol, U.S. Coast Guard, U.S. Army Corps of Engineers, and the Florida Department of Environmental Regulation in the enforcement of pollution control standards for marinas, marine dumping, and illegal discharges from water craft. (Amended by Ordinance No. 00-22)*

POLICY 78.1.5: *Installation of shoreside pumpout stations at marinas that serve live-aboards will be required to provide adequate facilities for subsequent transfer and treatment of boat sewage. The county will consider expanding this requirement to all marinas where central sewer service is available. (Amended by Ordinance No. 00-22)*

Goal 78 and Objective 78.1 provide specific language for the monitoring of water quality by the Lee County Division of Natural Resources, the enhancement of estuarine water resources, the cooperation of the county with the appropriate agencies for monitoring freshwater discharge, and the cooperation in enforcing pollution control standards for marinas. Staff finds that the proposed language should appropriately be placed under this Goal and Objective in the Lee Plan.

B. CONCLUSIONS

The South Florida Water Management District, the delegating entity over Southwest Florida's waterways, is establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River through the participation of several studies and plans. Natural Resource staff and Planning staff recommend adding the proposed Policy to the Conservation and Coastal Management element of the Lee Plan supporting the effort.

C. STAFF RECOMMENDATION

Planning staff recommends that the Board of County Commissioners transmit the proposed plan amendment as shown in Part 1.B.1.

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

DATE OF PUBLIC HEARING: June 25, 2001

A. LOCAL PLANNING AGENCY REVIEW

Staff presented the amendment before the LPA on June 25, 2001. Natural Resources staff was also present and available to answer any questions. The LPA provided no discussion concerning the proposed amendment.

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

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit this amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff.

C. VOTE:

NOEL ANDRESS	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
BARRY ERNST	<u>AYE</u>
RONALD INGE	<u>ABSENT</u>
GORDON REIGELMAN	<u>AYE</u>
VIRGINIA SPLITT	<u>ABSENT</u>
GREG STUART	<u>AYE</u>

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

DATE OF TRANSMITTAL HEARING: August 29, 2001

A. BOARD REVIEW: One member of the Board suggested adding the term "maximum flows" in addition to Minimum Flows and Levels which are referred to in the proposed policy. Another member of the Board discussed the issue of the most appropriate way to indicate the County's encouragement of the SFWMD's involvement and participation in funding for the implementation of the final water management plan. The Board directed staff to pursue encouraging the SFWMD in its funding for implementation.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. **BOARD ACTION:** The Board of County Commissioners voted to transmit the proposed plan amendment with the additional changes noted above.
2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The Board accepted the findings of fact advanced by staff and the LPA.

C. VOTE:

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

D. BoCC TRANSMITTED LANGUAGE:

POLICY 78.1.6: Lee County encourages the on-going efforts by the SFWMD in establishing a Caloosahatchee Water Management Plan for the Caloosahatchee River that recognizes public, environmental and agricultural uses of the river through participation in the Southwest Florida Feasibility Study, Lower East Coast and Lower West Coast Regional Water Supply Plans, Caloosahatchee Study, Minimum Flows and Levels, and the development of maximum flows and discretionary release protocols for Lake Okeechobee.

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

DATE OF ORC REPORT: November 21, 2001

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: January 10, 2002

A. BOARD REVIEW:

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION:

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

C. VOTE:

JOHN ALBION

ANDREW COY

BOB JANES

RAY JUDAH

DOUG ST. CERNY

