

**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* Gov  
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 10<sup>th</sup>, 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*

**CPA2000-26  
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 Public Hearing Document  
for the  
January 10<sup>th</sup>, 2002 Adoption Hearing

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*Lee County Planning Division  
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Fort Myers, FL 33902-0398  
(941) 479-8585*

November 21, 2001

**LEE COUNTY  
DIVISION OF PLANNING  
STAFF REPORT FOR  
COMPREHENSIVE PLAN AMENDMENT  
CPA2000-26**

☒

**Text Amendment**

☐

**Map Amendment**

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

STAFF REPORT PREPARATION DATE: March 15, 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:**

Eliminate the Backlogged Road reference and update the Constrained Roads reference in Policy 70.1.3.

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

**1. RECOMMENDATION:** Planning staff recommends that the Board of County Commissioners transmit the proposed amendment as provided under Part C, the Staff Recommendation portion of this report.



## 2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- Lee County adopted a set of changes to the Transportation Element of its comprehensive plan to reflect a new transportation concurrency system in May, 2000 (PAM/T 99-23).
- As part of that amendment, Objective 22.2 and its related policies and Table 2(a) were deleted in their entirety, because they referred to “backlogged” roads.
- The language relating to backlogged roads was deleted because all of the backlogged roads that were subject to the conditions in the plan were improved or no longer level of service problems, and the district-averaging concurrency system was being replaced with a link-by-link system consistent with a previous County commitment.
- Policy 70.1.3 of the Capital Improvements Element still includes a paragraph that refers to backlogged roads and Table 2(a), which should be deleted.
- Amendment PAM/T 99-23 also included a minor change to Policy 22.3.2 dealing with “constrained” roads, updating the table reference [due to the deletion of Table 2(a)] and adding a phrase to make clear that the regulatory level of service standard associated with constrained roads only applies to those in unincorporated Lee County.
- Policy 70.1.3 also includes a reference to constrained roads that needs to be updated to be consistent with the changes made in PAM/T 99-23.

## C. BACKGROUND INFORMATION

On May 4, 2000 the Board of County Commissioners adopted PAM/T 99-23, which was a series of amendments to the Transportation Element of the comprehensive plan to reflect a shift in Lee County’s transportation concurrency management system from a district-averaging approach to a segment-by-segment approach, consistent with a previous comprehensive plan settlement agreement with the Florida Department of Community Affairs. Included in the series of amendments were the following text changes, highlighted in strike-through/underline format:

~~**OBJECTIVE 22.2: BACKLOGGED ROADS.** All backlogged roads will be operating at the general level of service standards required herein by the year 2000.~~

~~**POLICY 22.2.1:** The minimum acceptable levels of service specified in Policy 22.1.1. will not apply on an interim basis to the backlogged roads identified in Table 2(a). It is the county’s intent that those segments will be operating at the identified standard in the shortest period possible, but no later than December 31, 1999. During that interim period, however, growth on those backlogged roads may be permitted if it is consistent with the Traffic District Program (Policy 22.2.2).~~

~~**POLICY 22.2.2:** A Traffic District Program is hereby established for purposes of determining allowable development affecting backlogged roads. On at least an annual basis, Lee County will estimate the service volumes for all county and state collectors, arterials, and freeways within each traffic district, and will determine the district-wide service volume surplus or deficiency.~~

- ~~1. Development permits that affect a backlogged road may still be approved provided that the surplus service volume resulting from the existing surplus service volume, any service volume increases due to committed roadway improvements, and any service volume increases due to interim improvements (reported as a percent of existing service volume on a district basis) is equal to or~~

~~exceeds the annual percent increase in traffic on a traffic district basis. However, such permits will be issued only if mitigation is provided in accordance with Policy 22.4.3.~~

- ~~2. In the event that the percent service volume growth identified above on a traffic district basis is less than the percent traffic growth in that district, no permits will be issued by Lee County for development that affects the backlogged segment. Such development will be permitted only if capacity enhancement and/or operational improvements are programmed for implementation within the specific District so that the total service volume growth for the District will again be equal to or greater than the District traffic growth. Growth on non-backlogged roads will not be affected. Development that does not affect the backlogged segment will still be allowed.~~
- ~~3. For purposes of calculating service volumes for the Traffic District Program, the following rules apply:~~
  - ~~a. Constrained roads (see Table 2(b)) will not be included in the determination of traffic growth and percent service volumes.~~
  - ~~b. Percent traffic growth will be based on the last full year of traffic count information.~~
  - ~~c. Committed roadway improvements for purposes of this calculation are those improvements under a current construction contract.~~

**OBJECTIVE 22.32: CONSTRAINED ROADS.** Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will be deemed "constrained" and therefore will not be widened. Reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community.

**POLICY 22.32.1:** Constrained roads are identified in Table 2(ba).

**POLICY 22.32.2:** A maximum volume-to-capacity (v/c) ratio of 1.85 is established for the constrained roads identified in Table 2(ba) that lie in the unincorporated area. No permits will issued by Lee County that cause the maximum volume-to-capacity ratio to be exceeded or that affect the maximum volume-to-capacity ratio once exceeded. Permits will only be issued when capacity enhancement and operational improvements are identified and committed for implementation that will maintain the volume-to-capacity ratio on the constrained segment at or below 1.85.

**POLICY 22.32.3:** For each constrained road identified in Table 2 (ba), an Operational Improvement Program is hereby established. This program identifies operational and capacity-enhancing improvements that can be implemented within the context of that constrained system. The Operational Improvement Program for constrained roads is identified in Table 2(cb).

## PART II - STAFF ANALYSIS

### A. STAFF DISCUSSION

Policy 70.1.3 of the Capital Improvements Element addresses the level of service standards for the concurrency management system. A large policy that duplicates information found in the Transportation Element, it includes a paragraph each discussing both backlogged roads and constrained roads. Most of Policy 70.1.3, including the two paragraphs in question, is reproduced below:

**POLICY 70.1.3: MINIMUM ACCEPTABLE LEVEL-OF-SERVICE STANDARDS.** Level-of-service (LOS) standards shall be the basis for planning the provision of required public services within Lee County. Some of these standards shall be the basis for determining the adequacy of public facilities for the purposes of permitting new development. The "Minimum Acceptable Level of Service" shall be the basis for facility

design, for setting impact fees, and (where applicable) for the operation of the Concurrency Management System (CMS).

Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law as being essential to support development. These consist of facilities for the provision of potable water, sanitary sewer, disposal of solid waste, stormwater management, community and regional parks, and transportation. (It is the intent of this element that these standards shall be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards set forth herein shall govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use; compliance with these standards shall not be a requirement for continued development permitting. (Amended by Ordinance 92-35)

## REGULATORY STANDARDS

1. Potable Water Facilities....
2. Sanitary Sewer Facilities....
3. Facilities for Disposal of Solid Waste....
4. Stormwater Management Facilities....
5. Parks and Recreation Facilities...
6. Roadway Facilities:

The minimum acceptable peak hour, peak season, peak direction roadway levels of service will be as follows:

Minimum Acceptable Level of Service		Peak Hour/Peak Season/Peak Direction
State & County Roads : (Non-FIHS Roads)		
Arterials		E
Collectors		E
Freeways (Non-FIHS system)		D
FIHS Roads <sup>(1)</sup> :		
I-75		
-Collier Line to Charlotte Line (Transitioning Area)		C <sup>(2)</sup>
(Urbanized Area)		D <sup>(2)</sup>
SR 80		
- I-75 to Buckingham Road (Transitioning Area)		C <sup>(2)</sup>
(Urbanized Area)		D <sup>(2)</sup>
- Buckingham Road to Hickey Creek (4L)	(Rural Area)	B <sup>(2)</sup>
	(Transitioning Area)	C <sup>(2)</sup>
	(Urbanized Area)	D <sup>(2)</sup>
- Hickey Creek to Hendry County (2L)	(Rural Area)	C <sup>(2)(3)</sup>
(4L)	(Rural Area)	B <sup>(3)</sup>
	(Transitioning Area)	C <sup>(2)</sup>
	(Urbanized Area)	D <sup>(2)</sup>

<sup>(1)</sup> The County may seek variances to the level of service standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.

<sup>(2)</sup> If any portion of I-75 or SR 80 is determined to be within an urbanized area over 500,000 based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "D" for any

*such area. If any portion of SR 80 east of Buckingham Road is determined to be within a transitioning urbanized area based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "C" for any such area.*

*<sup>(3)</sup> If the portion of SR 80 east of Hickey Creek is multi-laned and remains in the rural area after the year 2000 Census then the standard becomes "B".*

*The minimum acceptable levels of service specified above shall not apply on an interim basis to the backlogged roads identified in Table 2(a). It is the county's intent that these segments will be operating at the identified standard in the shortest period possible, but no later than December 31, 1999. During that period, however, growth on those backlogged roads may be permitted if it is consistent with the Traffic District Program (Policy 22.2.2)*

*Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(b). Growth on those constrained roads will be permitted only within the volume-to-capacity (v/c) ratios established in this plan and only if consistent with the Operational Improvement Program for those constrained roads.*

*The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policy 14.2.1 and Policy 14.2.2.*

*For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition shall be defined as the 100<sup>th</sup> highest volume hour of the year in the predominant traffic flow direction. The 100<sup>th</sup> highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions shall be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station. (Amended by Ordinance No. 99-15, 00-08)*

#### **NON-REGULATORY STANDARDS**

*7. Recreation Facilities...*

*8. Libraries....*

*9. Emergency Medical Service....*

## **B. CONCLUSIONS**

The language in the two paragraphs dealing with backlogged roads and constrained roads is inconsistent with the changes approved last year as part of PAM/T 99-23. The paragraph on backlogged roads should be deleted in its entirety, just as the objective and policies in the Transportation Element dealing with backlogged roads and Table 2(a) were deleted by the previous amendment. Again, all of the backlogged roads that were subject to these conditions have been improved or are no longer level of service problems, and the district-averaging approach to transportation concurrency was eliminated in favor of a link-by-link approach. The paragraph on constrained roads simply needs to be updated to change the table references [due to the deletion of Table 2(a)] and to add a clarifying phrase that makes clear the regulatory level of service standard associated with constrained roads only applies to those in unincorporated Lee County, consistent with the changes made in the Transportation Element last year.

## **C. STAFF RECOMMENDATION**

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



Two classes of standards are established. "Regulatory" standards are those which apply to facilities identified in state law as being essential to support development. These consist of facilities for the provision of potable water, sanitary sewer, disposal of solid waste, stormwater management, community and regional parks, and transportation. (It is the intent of this element that these standards shall be the same as those established in the various relevant plan elements. If there are discrepancies between standards contained in the elements and standards as set forth herein, the standards set forth herein shall govern.) The second class, "non-regulatory" standards, are those which apply to other facilities for which the county desires to set standards for its own use; compliance with these standards shall not be a requirement for continued development permitting. (Amended by Ordinance 92-35)

1. Potable Water Facilities....
2. Sanitary Sewer Facilities....
3. Facilities for Disposal of Solid Waste....
4. Stormwater Management Facilities.....
5. Parks and Recreation Facilities...
6. Roadway Facilities:

Minimum Acceptable Level of Service		Peak Hour/Peak Season/Peak Direction
<b>State &amp; County Roads : (Non-FIHS Roads)</b>		
Arterials		E
Collectors		E
Freeways (Non-FIHS system)		D
<b>FIHS Roads <sup>(1)</sup>:</b>		
I-75		
-Collier Line to Charlotte Line	(Transitioning Area)	C <sup>(2)</sup>
	(Urbanized Area)	D <sup>(2)</sup>
 SR 80		
- I-75 to Buckingham Road	(Transitioning Area)	C <sup>(2)</sup>
	(Urbanized Area)	D <sup>(2)</sup>
- Buckingham Road to Hickey Creek (4L)	(Rural Area)	B <sup>(2)</sup>
	(Transitioning Area)	C <sup>(2)</sup>
	(Urbanized Area)	D <sup>(2)</sup>

- Hickey Creek to Hendry County	(2L)	(Rural Area)	C <sup>(2)(3)</sup>
	(4L)	(Rural Area)	B <sup>(3)</sup>
		(Transitioning Area)	C <sup>(2)</sup>
		(Urbanized Area)	D <sup>(2)</sup>

<sup>(1)</sup> The County may seek variances to the level of service standards for the FIHS facilities as authorized under Section 120.542, F.S. If granted, the level of service standards for I-75 and SR 80 will be as approved by FDOT in the Order Granting Petition for Variance.

<sup>(2)</sup> If any portion of I-75 or SR 80 is determined to be within an urbanized area over 500,000 based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "D" for any such area. If any portion of SR 80 east of Buckingham Road is determined to be within a transitioning urbanized area based on the year 2000 Census by FDOT pursuant to applicable rules, then the standard becomes "C" for any such area.

<sup>(3)</sup> If the portion of SR 80 east of Hickey Creek is multi-laned and remains in the rural area after the year 2000 Census then the standard becomes "B".

~~The minimum acceptable levels of service specified above shall not apply on an interim basis to the backlogged roads identified in Table 2(a). It is the county's intent that these segments will be operating at the identified standard in the shortest period possible, but no later than December 31, 1999. During that period, however, growth on those backlogged roads may be permitted if it is consistent with the Traffic District Program (Policy 22.2.2)~~

Due to scenic, historic, environmental, aesthetic, and right-of-way characteristics and considerations, Lee County has determined that certain roadway segments will not be widened. Therefore, reduced peak hour levels of service will be accepted on those constrained roads within unincorporated Lee County as a trade-off for the preservation of the scenic, historic, environmental, and aesthetic character of the community. These constrained roads are defined in Table 2(ba). Growth on those constrained roads will be permitted only within the volume-to-capacity (v/c) ratios established in this plan and only if consistent with the Operational Improvement Program for those constrained roads.

The minimum acceptable level of service as specified above for Pine Island Road between Burnt Store Road and Stringfellow Boulevard is subject to Policy 14.2.1 and Policy 14.2.2.

For minimum acceptable levels of service determination, the peak season, peak hour, peak direction condition shall be defined as the 100<sup>th</sup> highest volume hour of the year in the predominant traffic flow direction. The 100<sup>th</sup> highest hour approximates the typical peak hour during the peak season. Peak season, peak hour, peak direction conditions shall be calculated using K-100 factors and "D" factors from the nearest, most appropriate county permanent traffic count station. (Amended by Ordinance No. 99-15, 00-08)

## NON-REGULATORY STANDARDS

7. Recreation Facilities...

8. Libraries....

9. Emergency Medical Service....

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

DATE OF PUBLIC HEARING: March 26, 2001

**A. LOCAL PLANNING AGENCY REVIEW**

The LPA members asked some general questions about the status of the County's concurrency management system and discussions of changes with the Florida Department of Community Affairs, current roadway conditions and level of service standards, the benefits of a link-by-link approach to concurrency, and roadway functional classification. There were no comments from the general public.

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

1. **RECOMMENDATION:** The LPA recommended 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 staff.

**C. VOTE:**

NOEL ANDRESS	<u>AYE</u>
SUSAN BROOKMAN	<u>AYE</u>
BARRY ERNST	<u>AYE</u>
RONALD INGE	<u>AYE</u>
GORDON REIGELMAN	<u>AYE</u>
VIRGINIA SPLITT	<u>AYE</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:** Commissioner Albion pulled this item from the consent agenda for discussion. He questioned the 1.85 volume-to-capacity (v/c) ratio used as a regulatory standard for constrained roads, which staff explained had been in the plan for 11 years. He asked that staff review that standard, which will be done as part of a future amendment cycle or as part of the Evaluation and Appraisal Report (EAR) process. He also asked about coordination of facility needs across jurisdictional boundaries and was assured that such coordination does take place. Finally, he suggested that the County may want to consider policies that allow for affordable housing even where roads are congested, referencing walk-to-work concepts and the on-going Smart Growth effort. There were no comments from the general public on this proposed amendment.

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

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

**C. VOTE:**

JOHN ALBION	_____
	AYE
ANDREW COY	_____
	AYE
BOB JANES	_____
	AYE
RAY JUDAH	_____
	AYE
DOUG ST. CERNY	_____
	AYE



**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 RESPONSE**

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**

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