

**MINUTES REPORT
LOCAL PLANNING AGENCY
January 25, 2010**

MEMBERS PRESENT:

Noel Andress (Chair)
Cindy Butler
Carie Call

Jim Green
Mitch Hutchcraft
Ron Inge (Vice Chair)

STAFF PRESENT:

Peter Blackwell, Planner
Donna Marie Collins, Chief Asst. Cty. Atty.
John Fredyma (only present for a segment)

Dave Loveland, DOT
Janet Miller, Recording Secretary
Paul O'Connor, Planning Director

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

Mr. Andress called the meeting to order at 8:30 a.m. in the Board Chambers of the Old Lee County Courthouse, 2120 Main Street, Fort Myers, FL. Ms. Collins, Chief Assistant County Attorney, certified that the affidavit of publication was legally sufficient as to form and content and entered it into the record.

Agenda Item 2 – Pledge of Allegiance

Agenda Item 3 - Election of Officers

Mr. Andress made a motion to nominate Ron Inge as Chair, seconded by Mr. Hutchcraft.

Mr. Green suggested deferring the election of officers until next month when the newest member would be in attendance. At that point, there would be a full member board. He recommended that Mr. Andress remain as Chair for another month.

Mr. Andress noted that the Local Planning Agency had a tradition that whoever is Vice Chair is typically made Chair the following year. Since Mr. Inge is currently the Vice Chair, it was logical for him to be Chair.

After further discussion, the original motion was called to question, but failed due to a 3-3 vote.

Mr. Green made a motion to defer the election of officers to next month and that Mr. Andress remain Chair until then, seconded by Ms. Call. There being no further discussion, the motion passed 6-0.

Agenda Item 3 – Public Forum – None

Agenda Item 4 – Approval of Minutes – November 23, 2009

Mr. Inge made a motion to approve the November 23, 2009 meeting minutes, seconded by Ms. Butler. There being no further discussion, the motion passed 6-0.

Agenda Item 5 – 2009 Lee Plan Special Amendment Cycle

A. CPA2009-10 Six Mile Cypress LOS

Mr. Loveland reviewed his staff report.

Mr. Inge asked what level of service staff anticipated for Six Mile Cypress once this segment is approved. He also asked what the current level of service was for the two-lane segment.

Mr. Loveland stated staff had not calculated a four-lane level of service at this point. He felt it would most likely be a level of service B or C. Regarding the two-lane segment, Mr. Loveland stated he believed it was E, but he was not certain. He believed it was projected to fail based on the growth from already approved developments; however, whether all of that development actually happens is not for certain. Many times people go through a permitting process, but do not end up completing their projects. Mr. Loveland also noted that this segment is viewed as a critical segment parallel to the interstate. Besides looking at a level of service for this segment, it is also viewed as a parallel reliever to I75.

Ms. Collins noted that since the reclassification at this time is a prerequisite to receiving the funds, the County wants to proceed because they want to make this road improvement.

Mr. Andress noted that no one was present from the public so the public comment segment was closed.

Ms. Call made a motion to recommend transmittal of CPA2009-10, seconded by Mr. Green. There being no further discussion, the motion passed 6-0.

B. CPA2009-05 Commercial Future Land Use Category

Mr. Blackwell reviewed his staff report.

Mr. Green referred to Page 4 of the staff report where staff recommends deleting the last sentence of Policy 29.1.8; however, this sentence does not seem to be struck through on Page 2.

Mr. Blackwell stated it was an oversight. That sentence was supposed to be in a strikethrough format.

Discussion took place on how staff derived at the .25 and .26 numbers (Section between Orchid Road and Barrett Road).

Mr. Andress stated he was concerned with going from 1 to a quarter. He also stated it may make it economically unfeasible to develop those properties when they have such a low FAR.

Mr. O'Connor noted that an FAR of .25 is normal for a Lee County commercial development and that it normally constitutes a one-story building with the required parking, open space, and retention areas, etc. If you go above the .25, it would mean having multi-story buildings.

Mr. Hutchcraft expressed concern that by applying this it assures a lower density over a greater area. He felt there should be another mechanism that would recognize intensification on appropriate pieces that would ultimately allow for a more efficient provision for infrastructure, better utilization of capacity on the roadways, and the generation of better pedestrian connectivity.

Mr. O'Connor stated he was in agreement and that under "Other Business" he was going to discuss what staff plans to do as part of the Evaluation and Appraisal process because it is germane to the concern mentioned by Mr. Hutchcraft.

Mr. Inge referred to language on Page 3 of 8 that says, "This figure was agreed to by staff and the landowners and their representatives. He asked if staff met with all landowners and representatives. Staff confirmed this was correct.

Mr. Inge asked if it might be more appropriate to put these regulations in the Land Development Code instead of the Lee Plan. He noted that once something is in the Lee Plan it is set in stone versus the Land Development Code where someone could ask for a deviation if appropriate.

Mr. O'Connor stated this had to be part of the Lee Plan. If it causes a level of service issue, it will be objected to by the Department of Community Affairs unless it is addressed. It can be addressed by adding capacity to the road or by reducing the total commercial that can be developed on a particular piece of property.

Mr. Inge stated he would normally object to this policy if it were not for the fact that staff has met with the landowners and representatives and they were agreeable to this change. Otherwise, he felt this amendment should be in a more appropriate place.

Mr. Hutchcraft agreed with Mr. Inge that it is not a correct rule when it is applied more broadly.

Mr. Andress noted there were no members of the public present, so the public portion segment was closed.

Mr. Green made a motion to recommend transmittal, seconded by Ms. Call. There being no further discussion, the motion passed 6-0.

Agenda Item 7 - Other Business

Exparte Communications

Due to a request by the LPA, Mr. Fredyma clarified what types of communication is limited between the LPA and the County Commissioners. He discussed a particular code enforcement case with the LPA that did not have any of the permits or approvals required by the County and involved a special exception and variance case attached to it since zoning reliefs are being requested.

Ms. Collins stated that LPA members can talk to the Commissioners about comprehensive plan amendment cases because they are legislative. The sunshine laws do not extend to comprehensive plan amendments. Staff encourages the community to discuss their issues with the Commissioners in a public hearing format because everyone is afforded due process. Any debates should take place in public.

LPA Respository

Mr. O'Connor provided an update to a request last month to have a repository created for LPA members to forward their e-mails from the public on various cases. This repository has been created and members can now forward their e-mails to LPA@leegov.com. Staff will have access to that site and those communications will be made as part of the record.

Ms. Collins noted that ITG would be able to print certain reports from that repository if staff receives public records requests.

Mr. Address asked how meetings are to be handled when applicants want to meet individually with LPA members to present their side of the proposal.

Ms. Collins clarified that LPA members could meet individually with applicants, because the public records law only pertains to written communication, not verbal communication or meetings. However, two or more LPA members cannot be present at meetings with the public. If two or more LPA members are present, the meeting would need to be advertised so that the public could attend. An LPA member may choose to write a summary of the meeting including their thoughts and disseminate it to staff (specifically Janet Miller) for distribution or LPA members. However, LPA members cannot respond to each other on the e-mails they are copied on because then you begin to engage outside of the sunshine communication, which is forbidden under state law.

Regarding written letters received by the LPA, Ms. Collins stated a copy should be sent to staff (specifically Janet Miller). The letters can be distributed at an LPA meeting or provided to Janet Miller ahead of time by faxing it to her or scanning it in and e-mailing it to her.

EAR Process/DRGR

Mr. O'Connor stated staff would have had two more items on the agenda today, but both applicants requested their items be pulled and placed on next month's agenda. He then gave the LPA an update on both the DRGR item and the Evaluation and Appraisal Report (EAR) process. Mr. O'Connor explained that staff intended to prepare a Request for Qualifications (RFQ) for the EAR Process. He noted that once staff drafts the RFQ, they would forward it to the LPA.

Mr. Hutchcraft noted that one of the critical issues of the TDR program is the balance between sending and receiving. If concurrent with that, DCA says they will have an objection to a significant percentage in the receiving areas in the DRGR, there will be a balance issue between sending and receiving. According to statements by Mr. O'Connor, staff has stated they will send those out to bonus density areas; however, there has not been a large demand for those. He hoped staff would look at this issue because there is an equity component.

Agenda Item 7 – Adjournment

The meeting adjourned at 9:40 a.m.