

**A BOARD OF COUNTY COMMISSIONERS WORKSHOP
CONSERVATION COLLIER – A Land Acquisition Program
Board Meeting Room E, 3rd Floor, Administration Building
3301 Tamiami Trail East, Naples, FL 34112
1 o'clock, December 6, 2004**

LET IT BE REMEMBERED, that the Board of County Commissioners, with the Conservation Collier Land Acquisition Advisory Committee, in and for the County of Collier, having conducted business herein, met on this date at 1:00 PM in a WORKSHOP in Board Meeting Room E third floor, Administration Building, of the Government Complex, 3301 East Tamiami Trail, Naples, Florida with the following members present:

Board of County Commissioners

Commissioner Jim Coletta
Commissioner Fred Coyle
Commissioner Frank Halas
Commissioner Tom Henning

Conservation Collier Land Acquisition Advisory Committee

Michael Delate
Marco Espinar
Ellin Goetz
Wayne Jenkins
Will Kriz
Bill Poteet
Kathy Prosser-Chairperson
Mimi Wolok

Collier County Staff: Alexandra Sulecki, Program Coordinator;
Cindy Erb, Senior Property Acquisition Specialist;
Mike Pettit, County Attorney's Office;
Joe Schmitt, Director, Community Development & Environmental Services;
Jim Mudd, Collier County Manager;
Chuck Carrington, Real Estate Services

The Board of County Commissioners workshop was called to order by Commissioner Fred Coyle on Monday December 6, 2004 at 1:00 pm.

I. Introduction and Overview

Commissioner Coyle asks which staff member is in charge of the meeting.

Mr. Mudd: Mr. Schmitt is officially, but he will turn the meeting over to Alexandra Sulecki. I want to verify that this meeting has been properly advertised, not necessarily as a joint meeting but a workshop for the Board of County Commissioners in which the Collier Conservation Land Acquisition Sub-Committee would be in attendance. There will not be any Sunshine issues in this particular meeting. There was a request made earlier if the sub-committee could sit at the front table for the discussion and I approved it.

Mr. Schmitt: I am joined today by Bill Lorenz, the director of the Environmental Services Department, and Alexandra Sulecki, the manager of the Conservation Collier program. We are here today to present a review of the program and look for policy guidance on how we are to proceed.

Ms. Sulecki reviews the materials provided:

- ◆ The Agenda for today's meeting
- ◆ Executive Summary
- ◆ Copy of the Ordinance
- ◆ Presentation Notes
- ◆ A Map indicating the locations of the Cycle One A & B properties and the Cycle Two applications.
- ◆ Property Lists
 - Cycle One A-List Properties – These are the properties that you have authorized us to purchase; the chart includes the location, acreage, assessed value and appraised value.
 - Cycle Two Applications – These are currently under review. There are two separate charts – The top one is qualified applications that came in during this cycle and the bottom one are properties from our first cycle list that we will re-rank automatically during the second cycle.

I would also like to note that I have given everyone a copy of the memo from Mike Pettit at the County Attorney's Office. As it was not included in the original packet, you may take a look at it now.

Mr. Henning asks if it is known how Conservation Collier will participate in the Fleischmann properties.

Ms. Sulecki confirms that it is not known yet and cannot be determined until the appraisals are done; the figures provided may change once that is determined.

Mr. Coyle: For items 3 and 4, the School Board properties, is there any way for the Collier County government to arrange a trade, rather than use Conservation Collier money?

Ms. Sulecki: That is an interesting idea. In context of our program, I don't know if we have the authorization to trade but that is certainly something we can look at.

Mr. Coyle: If you would like the staff of the Board of County Commissioners to look at, we could perhaps pursue that and save a little money here. We are constantly working with developers that are setting aside lands for schools and other purposes.

Ms. Sulecki: That would be wonderful, I would welcome that.

Mr. Coyle: How do the commissioners feel about that?

Mr. Coletta: My concern is that we have reached a meeting of the minds with different projects, Durdis Bay for one, which is needed for fire stations and government buildings. If we don't build it there the county has to spend money.

Mr. Coyle: Let's make sure that we haven't decided on which properties we would want to trade. I believe that nobody mentioned that particular piece of property. It does not mean that anything we have now has to be transferred to the School Board. It means that if we do have, or can obtain, property that will satisfy the School Board's needs, then why can't we make this exchange?

Mr. Coletta: Why couldn't the School Board donate the property? Why does the county have to donate in every case? I think there's a limit as to what can be expected.

Mr. Coyle: I certainly would not object to the School Board donating property.

Mr. Henning: As an example, the rural fringe in the receiving area there's a potential large development and possible DRI. I think that is where Commissioner Coyle is coming from. Perhaps it may even be Avé Maria.

Ms. Sulecki: This is an interesting suggestion, I would like to say that we are getting ready to rank on this list on December 13th and there is probably not time to determine that between now and then. It could perhaps affect the ranking.

Mr. Coyle: We have three commissioners in agreement. This doesn't mean that anything will be done. It means we will look at it and we'll have to bring it back to public hearing. If, by chance, we can identify anything that makes sense to the Collier County Government, the taxpayers and the School Board, then perhaps we can complete this.

Ms. Sulecki: Understood, thank you.

Mr. Halas: As long as it doesn't become a burden to the taxpayers of Collier County, if someone is willing to donate that land, I would agree with that. Whereby, it becomes our burden and not the School Board's burden, I am looking for ways that we do not have to spend the money.

Mr. Coyle: That's right; it has to be something that is equitable to both parties.

Mr. Coletta: We already have provisions being made in several communities out there for lands to be donated to the school system. Avé Maria is presently in discussions to assess the needs.

Mr. Coyle: We will find out more when it is evaluated.

Ms. Sulecki continues:

We are going to start with the staff presentation, which will be Mr. Lorenz and I. We have Assistant County Attorney, Mike Pettit here to answer questions. Also, we may be expecting Jim Mitchell, the finance and accounting manager for the clerk. We also have our Conservation Collier members. After the discussion we will be asking the Board for a policy decision.

Mr. Coyle: Are we going to be talking about the ranking of these properties?

Ms. Sulecki: We will not, unless you have a question.

Mr. Coyle: I would like a clarification. I looked at the tapes from the last Board meeting. Commissioner Fiala raised some issues about certain parcels that had been removed from a priority list and she had suggested some modifications or changes to that list. Could someone clarify this?

Ms. Sulecki: I am not familiar with this at all.

Mr. Henning: There is concern about the CREW lands trust monies being shifted and all she was saying is that we want to keep it intact. It had nothing to do with this.

Ms. Sulecki uses a slide presentation to illustrate the following:

There are three presentation objectives today.

- ◆ We would like to confirm the intent of the Referendum as it relates to the total cost of the program.
- ◆ We would like to look at the long-term Financial Management Plan. What do we need to fully fund the program, given some assumptions? Are we setting aside enough funds for long-term management, which was clearly the intent of the voters and the ordinance to provide management funding?
- ◆ And finally, we would like to receive direction from you.

The Key Program Authorizations

- ◆ First, the Referendum, this is what voters saw and approved and it pertains to the bonds. We were going to issue up to \$75 million in bonds, to be paid off in ten years, at a rate not exceeding ¼ mill out of ad-valorem taxes.
- ◆ Then we have the ordinance which also discusses the ¼ mill and the 10 years in the “whereas” section. It talks about this in sections 16 and 19. However, it kind of has the language backwards. In the “whereas” clause it says there is going to be a levy of ¼ mill not to exceed a period of ten years. In section 16, it says the tax is going to sunset after 10 years unless there is a reauthorization. In section 19, it says a levy up to ¼ mill for ten years. So, the ordinance does not really give us a lot of direction. However, it does talk about a funding split of 85% to purchases and 15% to land management.

Mr. Coyle: What would you like us to do with regards to the ordinance?

Mr. Halas: I think we received some direction from the county attorney. I would like to ask why the ambiguity with the ordinance?

Ms. Sulecki: When we move through a little bit, maybe it will become clear.

Mr. Halas: We really do understand the issue.

Ms. Sulecki: Would you like me to just move a little faster?

Mr. Halas: Sure

Mr. Pettit: Let me interject. I will be able to answer the questions related to the ordinance and the ballot question very shortly.

II. Review of Referendum Ballot Language

Ms. Sulecki reads the ballot question into the record:

SHALL COLLIER COUNTY BE AUTHORIZED TO ACQUIRE, PRESERVE AND MANAGE ENVIRONMENTALLY SENSITIVE LANDS FOR THE PROTECTION OF WATER RESOURCES, WILDLIFE HABITAT, AND PUBLIC OPEN SPACE BY ISSUING BONDS UP TO SEVENTY-FIVE MILLION DOLLARS PAYABLE FROM AD VALOREM TAXES NOT EXCEEDING ONE QUARTER OF ONE MILL FOR A PERIOD OF TEN (10) YEARS, AND BEARING INTEREST AT A RATE NOT EXCEEDING THE MAXIMUM LEGAL RATE?

Then we look at the ballot question meaning and what it really authorizes us to do. It authorizes us to purchase \$75 million in bonds to purchase property. The Referendum allows the county to exclude the payback for the bonds from our 10 mill cap. So, our millage is now about 4.8, there's room, but it is definitely something to be aware of. Any funds not associated with that bond are included separately in the county budget as part of the 10 mill cap, which would be management and the program expenses. Then the county can pay the bond debt with taxes but in an amount not to exceed ¼ mill and for no longer than ten years. That is all the referendum authorizes.

We have posed some questions and answers:

1. Can the County purchase more than \$75 million worth of land?

The short answer to this question is yes. Voters approved up to \$75 million in bonds. Remember that the bonding is limited to that and this amount of costs and interest are excluded from the 10 mill cap. You can authorize additional purchases; these expenses are included in the 10 mill cap.

2. Can the County bond the management of the acquired properties?

No, even though the voters may have thought that the \$75 million included management funds and program expenses, bond funds, under Florida law, cannot be used this way. Only 5% of bond proceeds can be used for capital expenses, examples include: fencing, initial cleanup, the initial exotic removal but certainly not ongoing management expenses. So we need another funding source for these things. Ordinance 2002-63 states that up to 15% of that tax levy can be used for management cost.

3. Should the County purchase more than \$75 million in properties?

Did the voters intend to limit the total program cost to \$75 million? You have seen the ballot language. We cannot truly know what all voters read into this language. However, you, as elected officials and representatives being involved in that process can answer that question based on your involvement with the community that supported it. Part of that community is here today and they have stated that the intent was to levy the full .25 mils over the ten years and the expectation was that the program would bring in more than \$75 million, possibly \$150 million, and that the \$75 million was a jump start to buy properties in a rising real estate market. Did they intend to limit property costs to \$75 million or maybe they just intended to limit the bonding to \$75 million and the total cost would be the amount that was raised, with .25 mils, over ten years, at this point \$170 million.

For cycle one properties we have authorization to purchase and have done so, that total is roughly \$24 million. Our total at this point \$24 million.

Some cycle one properties have not been purchased yet, such as the Fleishman property, but we are still pursuing them. Those add up to \$8.5 million.

The total is \$32.5 million.

Now we are looking at the cycle two properties that have been nominated. That is roughly another \$13 million. Not all of those properties will be selected for the "A," or "buy," list. This would bring the total program costs to approx \$45.5 million, but I would say that, realistically, it will be about \$8 million less than that, \$37.5 million.

That leaves us with roughly \$29.5 million at this time.

Cycle two will be ranked on December 13th; we will be bringing that recommended ranked list to you in January for approval.

III. Long Term Financial Management Plan

Mr. Lorenz *continues with the slide presentation.*

One of the things that the county manager asked for earlier in the year was what the future conditions for the Conservation Collier program were to be, especially considering the management of the properties that we have already purchased or intend to purchase.

Staff has developed a financial management plan to ensure that we have proper funding for property acquisition, program administration and land management needs.

We tried to estimate the costs and revenues of the program as well as how much money would be dedicated to land management.

There were key assumptions that staff made during this process and of course we would expect to review this plan on an annual basis. To get started for this year, the key assumption we made was that property values would be limited to \$75 million. To give you an idea of what this means, at an average cost of 25k an acre, we could be looking at 3,000 acres of property. That is also an important factor because our land management costs will depend on the amount of acreage we have. In order to evaluate this program on an annual basis we have to forecast the acreage that we expect to have in inventory and that will affect the management cost projections. Staff is working on the \$75 million property value as an assumption.

Mr. Coyle: Alex told us that we could not use bonding funds for maintenance. That means you only have \$63.7 million to acquire property, is that correct?

Mr. Lorenz: I think the question is "are we looking at a \$75 million total cost program?" Land acquisition, administration and management or, the other end of that spectrum is looking at ¼ mill for ten years which would be an estimate of about \$170 million. The assumption that staff has made is that we will be purchasing \$75 million worth of property. The remainder of this analysis will show you how much more that would be in terms of the total cost of the program, somewhere in between \$75 million as the minimum and \$170 million as the maximum.

The other assumption was that this tax is not going to be levied after 10 years. So in 2013 we will need to have sufficient funds built up for management to continue until sometime in the future. Now if someone wanted to say in perpetuity, there would have to be an endowment fund. We have established 25 years for the purpose of this analysis. By the year 2013 we will have built up the reserves to take us through 2038.

We also made a variety of assumptions regarding the costs of management. Alex has surveyed the ranges of costs across other counties. We have also built a 3% rate of inflation and a 9% annual property value increase into the analysis. Again, this will be reviewed every year.

Our analysis is \$135 million total cost for the program. Land acquisition & administration \$95.6 million. Land management cost is \$39.8 million.

We have purchased property for cash and bonds are also being issued. Interest of \$10.9 million is our estimate. \$3.1 million is included for administration staffing, property appraisals, environmental audits and other services to assist the program.

Land management will cost \$11.9 million through 2013. To build a reserve account we estimate \$27 million to take us through 25 years. Included in Land Management is exotics control, trash and debris removal, fencing, footpaths, boardwalks and parking. Keep in mind that public access is in the ordinance.

We have categorized the maintenance expenses into two groups: minimum asset protection and public access amenities. Public access amenities are encouraged but, do we need to spend these funds? We have also been looking at potential grants for these expenses.

What kind of revenues are needed to cover these expenses? The current ordinance language has 15% of the millage going to the land management trust fund. We have a land acquisition trust fund and a land management trust fund. Analysis that we have shown you indicates that we are under funding that land management trust fund. Though we should be closer to 28% to ensure that we are taking care of land management through the year 2013 and future land management when that goes away. I think we may be on a high side for that and we may be closer to 25%, but again we will re-evaluate every year and provide the board with a recommendation of how much we should be putting into that land management trust fund.

The impact of this financial analysis on the millage rate early on we are at the full .25 and as you go further it goes down to .14 in 2013.

Mr. Coletta: Voter's authorized \$75 million but we are going to spend \$135 million?

Mr. Lorenz: Yes.

Coletta: Would the difference come out of ad valorem?

Mr. Lorenz: It would come out of those millage rates. It would be these millage rates that you see on the chart coming from ad valorem.

Mr. Coletta: When we went over this did we explain to the voters that the \$75 million really meant \$135 million? Was this something we were explicit with up front? I'm really scared about this now. I was looking at \$75 million now I'm looking at \$135 million with the balance coming out of ad valorem. I'm not saying that the public wouldn't support it. I think there is a tremendous amount of support to buy land now before it goes up. However, what was it that we advertised? I'm concerned.

Mr. Lorenz: The board adopted the ballot question the rest of the information that went out to the voters was the responsibility of the political action committee; they came to the board on a couple of meetings. The appropriate individuals to answer your question would be those who were advocating for the referendum.

Mr. Coyle: Could I make a suggestion? Bill you have asked us for an opinion on whether your assumptions were correct. I really don't think we can reach that opinion until we have heard from Mr. Pettit about the legal interpretations of the ballot and the ordinance. If the commissioners and others present do not object I would like to ask Mr. Pettit to give us a summary of the legal interpretation.

Mr. Pettit: Our office, myself and outside counsel has been looking at this question since late July. As far as the ballot question goes, the voters were asked to approve the issuance of \$75 million in bonds. I do not believe that was a cap on this program, I believe it was a cap on the amount of bonds

to be issued and that those bonds were to be funded by a levy that could last up to 10 years at ¼ mill. In section 200.181 of Florida statutes, it says that a Board of County Commissioners may levy at a full millage even if the debt service can be accomplished by less than that millage. Working with outside bond counsel it is our belief that simply means you can levy the .25 during your annual budget cycle and determine how you want to spend it. I do not believe that this board by ordinance separate and apart from the budget process can decide that they are going to spend a certain amount for a series of years on a project. There's case law that suggests one commission cannot adopt an ordinance that would limit the authority of a successor commission and the exercise of its taxing power. You clearly have authority to authorize a bond issue up to \$75 million dollars. We believe that money can be spent for purposes of the program and you can levy what's needed to be levied to fund that bond issue. In fact, you can levy that entire levy, but once you go above payment for the bonds, you really are into your annual budget process and that money would be counted against your 10 mill cap while the money that would go to fund or repay the bonds would not be counted against the 10 mill cap. There's been discussion early on about caps and limitations; I do not believe that the ballot limited this commission on the amount of money it could spend to purchase environmentally sensitive lands. I think it simply authorized the issuance of the bonds. That's how I read it.

Mr. Halas: But we don't know how the taxpayers took this.

Mr. Coletta: We do know.

Mr. Halas: Yes, they said \$75 million.

Ms. Goetz: As you know I was the chair of the Vote Conservation 2002 and I came before you along with other members of that group several times. We had in 2002 projections done with county help as to how a program like this could be paid back if it was ¼ mill. All of the projections showed over \$100 million in revenue being gained. On our website, which was in existence then, we did say, on the front page it is estimated that such a program in Collier County could raise \$100 million, even though the bonding was for \$75 million. There were two very distinct issues, one was the bonding to buy land up front and the other was looking at what kind of revenue stream could be produced.

Ms. Prosser: I want to note that one of the handouts that we used during the campaign illustrated this. At the end was a section "how much will it cost you." It reviewed the proposed ¼ mill increase (\$25.00 for every \$100,000 in taxable property) that would be in effect for 10 years.

Mr. Coyle: But that's not on the ballot.

Ms. Prosser: If I may address that from my prospective, someone who worked very closely on the referendum issue, we were told by the county attorney's office at the time that the county commissioners did not need a referendum to increase the property tax, however if we wanted to have a jump start to the program, i.e. bonding, that would have to go to the voter. That is why the only thing specifically addressed in that referendum dealt with the bond.

Mr. Coletta: I know your intentions are most noble and I agree with what you say. We need to get this land and have it in our inventory. However if you go with what the ballot said, the ballot was specific in its language for the \$75 million. My suggestion is that we work toward the year 2006 to get this on the ballot again so they can actually read the full millage for ten years. I have a mandate that I got from the voters out there and that is the \$75 million, I didn't interpret it any different than that. In fact I am shocked that we are going to have to come up with ad valorem tax above that. That wasn't clearly stated as understandable. I would be willing to go back to the voters.

Mr. Halas: I agree, go back to the voters.

Ms. Goetz: If I could just say as a taxpayer, don't you think the issue here is ¼ mill? That chart displayed actually reduced the millage rate over the lifetime of this program, it never raises it, it's below ¼ mill.

Mr. Coletta: They should have never used the word \$75 million.

Ms. Goetz: That was for bonding.

Mr. Coletta: We have to lay it on the line and stick to the language of this ballot and then put it back to the voters.

Ms. Goetz: We explored \$100 million and a \$75 million bond back in June of that year. It was decided at that time that \$75 million was the desired figure, but it was never the intent that there would be less than that purchased. We were clear through the entire campaign.

Mr. Coletta: I don't follow the logic. I know where you're coming from and you're very sincere. I appreciate the fact that you've been working on this for so long. However, it says \$75 million. It doesn't say in conjunction to the bonds we will also be able to continue the ad valorem tax regardless of whether it is \$75 million or \$150 million.

Ms. Prosser: I would like to once again support what Ms. Goetz is saying. I was out for a year and a half talking to the public about this program and I never said it was capped at \$75 million. It was ¼ mill for ten years, period. It was the ballot language that was crafted by the county attorney's office, who guided us in saying, you only need to have a referendum for the bond. Otherwise, if we believed or have been led to believe that it had to be ¼ mill for ten years, I assure you that it would have been put in the language, but we were told no.

Mr. Halas: I really think that maybe we need to look at it more closely. I believe strongly in truth in advertising. It was advertised at \$75 million, I don't care what the brochures stated. It was placed on the ballot and that is what we have to worry about. I also agree with Commissioner Coletta we have to bring this back to the voters.

Mr. Henning: I would proceed cautiously because we are going to have some shortfalls in the future. I think the taxpayers should be fully aware and I think the Board of County Commissioners needs some guidance. What concerns me is that the maintenance cost has not been divulged. I was quite surprised at how much it was going to cost. But the projections are until 2013 knowing that it

is going to continue forever. I would hope that we could shift until it is brought to the taxpayers or voters.

Mr. Coyle: I guess one of the things that bother me about this process is the opinion of the county attorney which says *“Nothing in the ballot language reasonably suggests that the voters were being asked to approve a one quarter of one mill tax for a period of ten years. Indeed, the sole question asked of the voters in the ballot was whether they approved the bonds.”* I think it would be extraordinary if the Board of County Commissioners disregarded that legal opinion.

Mr. Pettit: The issue of what you can use for bonding other than the land purchase itself, is a federal tax law issue. With tax exempt bonds there's a 5% limitation on what you can spend for what is called 'working capital' which probably would include fencing. Ongoing handling of exotics probably would not be included.

Mr. Coyle: Would you find that if you can issue \$75 million in bonds with a ¼ mill for 10 years. Would you find that you can use a portion of the proceeds from the millage increase for maintenance?

Mr. Pettit: I want to make sure that everyone understands my opinion. It is not included in that memo. There's another gloss on that. What you said is absolutely correct; I stand by what I said in that memo. There is a Florida statute that I mentioned earlier, section 200.181. It clearly provides that you can, in a bond referendum, tax above and beyond the amount of money you need to pay back the bonds. It simply means at that point you would be eating into your 10 mill cap and the money that you were taxing would have to be relevant to the capital project. But we believe, and this is in consultation with outside bond counsel, that is tied into your annual budget process. Say you pay back the bonds in 7 years, you continue taxing, but it would be something that you would appropriate in an annual budget process, because there is a law out there that says one commission cannot simply pass an ordinance and say we are going to use a certain millage for a certain period of time and bind another commission in its annual budget process.

Mr. Coyle: I would have to agree with my colleagues that in order to keep faith with the voters we have to look very clearly on what was on the ballot and understand what that led people to do. If your opinion is that the ballot language authorized the \$75 million in bond issuance and nothing more than it appears to me that we have a problem getting the maintenance cost funded. You told me we couldn't really fund the maintenance cost from the bond proceeds

Mr. Pettit: My understanding is that it is a federal tax law related to the tax exempt status of bonds we issue. There is a 5% limitation on the funds we can use and it must be working capital such as the initial installation of fencing or the initial removal of exotics.

Mr. Henning: Explain to me how long it would take to pay off the \$75 million at ¼ mill.

Mr. Lorenz: The bond counsel has recommended that we pay that off in 8 years because the tax levy cannot be more than 10 years. So we have to structure the debt service schedule to be paid back within the 8 years.

Mr. Henning: That is the recommendation but with the scenario of ¼ mill how long would it take to pay off the \$75 million?

Mr. Lorenz: For ¼ mill would raise \$170 million over ten years. It would take 4 to 5 years to raise the \$75 million.

Mr. Henning: Clearly, we have enough time to get proper guidance for this. Within that ten years I think we still need to set aside funds for long term maintenance of the properties but we can clearly define what the intent of the voters is in 2006.

Ms. Goetz: I think the will of the voters was to buy land in this county and preserve it. I think you've seen that very recently on a different issue. I think that you are our county commissioners and you can make decisions that are not imprudent if there is vagueness in this language. At the time we did not think there was any vagueness in the language. That is why every time we went out we would say the projections show that you could raise \$150 million over ten years with a program like this. Because one of the thoughts that came from the public was concern that \$75 million was not enough to purchase land.

Mr. Coyle: The reality is that this Board of County Commissioners said we are not going to raise the millage rate. The reality is that, in this program, we will need guidance to raise the millage rate for the maintenance of this property. Besides the other things that we know, we are going to have shortfalls. That's where we are. If we are going to raise millage rates for maintenance of this program, we are going to get some guidance.

Ms. Goetz: No one has discussed raising millage rates beyond what was approved by the voters.

Mr. Schmitt: I think Mr. Lorenz should go back to the slide depicting the millage rate, because somehow the commissioners got the impression that we were going to be raising the basic millage rate. This slide depicts ¼ mill then declining over a ten year period and this will raise the entire \$75 million for the bonds plus the additional moneys for land management and the interest. This has nothing to do with the basic millage rate. The debate is whether we keep the ¼ mill for ten years or do we do what staff is showing here which is to keep a \$75 million cap for purchase of the property, but we want to have additional millage to raise sufficient money to have an escrow for land management. However, nowhere do we say that we are going back into the general fund. This is the ¼ mill that the voters approved. The basic argument is: do we keep it at ¼ mill or do we have a declining rate as shown. This started when County Manager Mudd approached Mr. Lorenz and I to ask when the millage rate should start to decline for the Conservation Collier program. When we first came in our projection showed that we would be well below ¼ mill by year six. Then we began to see that we really needed more funding if we were to pay for land management for 25 years for the amount of land that could be purchased for \$75 million. Hopefully that makes it clear.

Mr. Coyle: I believe the issue that is troubling some of the commissioners is that the voters were not asked to approve the ¼ mill tax for ten years and the commissioners are interpreting that to say it is their legal responsibility to increase the millage rates to pay for this program on an annual basis. The commissioners have been very clear in all of our budget hearings for the past three years. We are not going to increase millage rates. Now we are being told that in order to raise this money we

have to increase millage rates and we did not ask the taxpayers. Our intent was to ask the taxpayers if they were willing to tax themselves for this program and now we are being told by legal counsel that we did not ask that. We approved the ballot language, so lets not try to blame it on the people who were out getting the votes.

Mr. Schmitt: You are absolutely right. That is why we thought it had to be brought back to the commissioners.

Mr. Coletta: I think we are hearing the will of the commissioners. I can't quite understand why there is any resistance in taking it back to the voters. In 2006 you are still at .24, keep it at .25, and then you will hear the will of the voters. They may agree that you should keep it at .25 for ten years and then you will be ahead of the game. I think we need to have clear and concise language in there so it can be better understood what we are talking about, not on websites, not on pamphlets, but something that can be printed in such a way that the voter can look at it in a moments notice and decide. It also has to be something that will make provisions for the cost of maintaining this land. I for one am not excited at all about going to the ad valorem tax to include the cost of maintenance. I was under the assumption that the \$75 million was all inclusive.

Mr. Schmitt: Commissioners, should we take that as guidance that the program cap, inclusive of everything will be \$75 million until this goes back to the voters?

Mr. Halas: I think this was a lesson learned because it was a whole new program. We need to figure out exactly what this is going to cost us between now and 2006. We need to figure out if we want to buy more land. We can then ask the voters if they want to continue this bond issue of \$75 million or do they want tax themselves and raise the limit to whatever is going to accommodate the added value of purchasing lands in the future. Then we don't get involved in interpreting what it means. I think we have to be up front with the voters and that is where I am going to stand on this. It was basically sold to the voters at \$75 million and that is the cap. Now we have some information and we are getting some idea of what it will cost to run this program and that also has to be put into that so that everyone knows it will involve additional expenditures that will come out of their pocket.

Ms. Goetz: How are you paying for it now? If you are not taxing for it now, how is it being paid for?

Mr. Coyle: That is how it is being paid for.

Ms. Goetz: So what is the deal in not continuing it? What is unclear about what the voters wanted?

Mr. Coyle: It really boils down to an attorney's opinion that advises the commissioners that we did not ask the taxpayers to approve raising the tax rate for 10 years.

Mr. Pettit: I stand by my opinion, you are reading it correctly. I was not the attorney advising at the time of this program. You do not need to have a referendum to determine if you want to raise millage rates, you have a referendum to determine if you can issue bonds.

Mr. Coyle: I think we can have a referendum anytime we want to get the voter's feeling on something and that is what we are interested in doing. I know that legally we can increase the taxes anytime we want within limits, but we have promised the taxpayers that we wouldn't do that and that is the problem. We have essentially promised the taxpayers that we will not increase the property taxes unless they vote for the increase and we thought we were asking them for permission to do that.

Mr. Pettit: I think you were asking them to increase their property taxes to the extent to fund that bond issue. That's what the ballot question asks.

Mr. Coyle: That gives us \$63.7 million to expend on property acquisitions and \$11.25 million to pay for maintenance. We are not likely to be able to spend that before the next election.

Ms. Wolok: The bonding issue that was put to the voters was \$75 million. You are saying that the voters said only \$63 million and the rest for management. I would have to disagree with that because the voters voted for bonding of \$75 million and I think it would be extraordinary for voters to have approved the \$75 million bond and not approve long term management and maintenance on this property. Since the law says that management money could not come out of the bonded funds it had to come from somewhere else and of course that would be the ¼ mill, I would think that voters would never have approved this without management. Management money should not come from the bond total.

Mr. Coyle: I do not have any quarrel with that. So if you want to say that in addition to the \$75 million there was an implied 15% management fee that should be added to that. Now we are talking about \$86.25 million. That means you still have a cap of \$75 million in bonds. We could have an additional tax to cover the maintenance cost; I wouldn't have a problem with that. That gives you plenty of funds to operate with until we can get this on the ballot in 2006.

Ms. Wolok: I need to bring up another issue as a biologist and a real estate lawyer that 15% for management is inadequate.

Ms. Goetz: That's what we were advised to do.

Mr. Coyle: And I am not going to start changing it now. I'm not blaming anybody for this; we should have caught it ourselves. How this thing can get so confusing now and it was so clear back then is beyond me.

Ms. Prosser: How are we buying this property now, have we increased our tax by ¼ mill?

Mr. Coyle confirmed that the tax has been increased.

Ms. Prosser: When we hit the \$75 million or the \$86.25 are we going to reduce the property tax back down if that's what the voters really voted for?

Mr. Coyle: I don't think so because I think there are additional costs associated with that bond issuance that will take us above that, but that was again implied along with the approval of the bond.

Ms. Prosser: So whatever the combination of costs for this program is, once that is hit then we can expect to see a drop in our property taxes unless we get a referendum that is successful.

Mr. Coyle: I was just wondering if Jim Mitchell from the clerk's office has something to add to this also.

Mr. Mitchell: I agree with everything that Mr. Pettit is saying. From a referendum standpoint it was everything up to ¼ mill to fund bond issuance up to \$75 million. The bottom line is you have not issued any debt for that, you have not issued any component of that ¼ mill. All that you have done so far is above the line which is basically considered your discretionary ad valorem tax, which does count toward your ten mill cap. The only concern I have right now is that we are getting ready to come to you to issue approximately \$32 million of this kind of debt. What this issue is made up of is that we took out some commercial paper loan to purchase America's Business Park and that was a very short term note, March is the deadline for that. Also included in that was some additional properties from the cycle one list that they were ready to acquire. So we are ¾ of the way through this, we already have a closing date; we actually already have the bond rated. We do need some direction.

Mr. Henning: Do we have any contracts out? We can't back out of those.

Mr. Lorenz: We have four contracts, about \$100,000.

Mr. Henning: I am kind of skeptical to continue in future years knowing the direction that the board gave at the last three budget hearings that we were not going to increase. This bond issue for Conservation Collier was going to go down, so we need to answer the question. I think this has to be fully disclosed.

Mr. Lorenz: If the board's direction is to cap the entire program at \$75 million, we would need to come to you with the cycle two properties and show you how much you have committed to property values, how much you have to run the rest of the program administratively and through land management and ensure that is less than \$75 million.

Mr. Coyle: There is still that complicating maintenance component and I don't know that the board members have indicated their preference concerning that. We just had a discussion about considering the \$75 million as a cap or the bonds to purchase. It was made clear, in everything I saw that there would be a 15% maintenance fee, so would the board feel comfortable in continuing the quarter mill increase in ad valorem property taxes to fund the \$75 million plus \$11.25 million in maintenance?

Mr. Halas: Up until this is put back on the ballot and that would be the year 2006 so we would probably still be fairly close to the guideline that we wouldn't exceed the \$75 million cap.

Mr. Coyle: I don't think you can spend that much in the next two years; you could if you tried, but right now you're not on the track to spend that. Beyond cycle two you have an additional \$38 million. Are the properties that you are thinking about going to exceed that \$38 million?

Ms. Prosser: We do not know right now because of both Fleishman properties. I thought you were going to look to us to repay part of that price at some point.

Mr. Mudd: First of all I want to make sure that Ms. Prosser and Ms. Goetz understand they are not out there alone thinking about the projections of \$130 million. Tom Olaf had projections from \$132 to \$150 million. I have seen those documents. It was not something that they just dreamed up. If the referendum language is saying \$75 million bonding, a principal and interest payment is implied. I believe it would be something above the \$75 million to purchase the property, there would be some interest payment, then there would be some implied maintenance, if that's 15% in that process.

Mr. Coyle: The referendum question was the issuance of \$75 in bonds. I think when the face value is \$75 million you know that the cost is going to be higher. I think that there was sufficient disclosure on that issue, but it does get increasingly complex. I have no problem providing for the \$75 million in bonds and the debt service on those bonds.

Ms. Prosser: Commissioner Coletta asked what the problem would be to go back to the voters again. I would just suggest, as a member of the voting population, that I would wonder what we are doing. In 2002 we came before them with the land acquisition program. In 2004 we came before them and now we are coming back again in 2006. I would be wondering what the deal is. That's the downside of falling into supporting only the language in the ballot which says \$75 million to bond.

Mr. Coyle: Our problem really is more complex. We have to do certain things with respect to referenda in the future. If people get the impression that we are not being forthright with them then our opportunities of passing referenda in the future will be diminished. I think it is worth every effort to get the information to the voters and make sure that we are completely honest with them. I am just disappointed that we didn't clarify this at the right time. We certainly had plenty of opportunities to do that and it is disappointing to me that we would have these kinds of confusion arising at this point in time.

Ms. Goetz: The other thing is that ballot language is always difficult and everybody looked at the other counties and looked at their referenda. We were thinking that it was very clear.

Mr. Coyle: I am not blaming anybody, we are as much at fault for this as anybody and we drafted the implementing ordinance. Why didn't we pick up on it at this point? I don't know why these questions weren't asked at this point. They weren't and the only way we can resolve this is to go back to voters.

Mr. Jenkins: I would like to commend you for what you interpret on this and I think you are in the right direction. I had not had the opportunity to work on the voting campaign. As an average voter, I was under the impression that I was voting for the \$75 million to fund the purchase of property. We realized that we do have a serious issue. It forces the question, are we almost through with our land purchases? We do need a definite answer with how to proceed. With fairness to the public we need to disclose these details to them. While we are speaking on the subject I have another problem that I was told needs to be addressed through a referendum again. When we purchase a piece of property are we able to turn around and sell it? We have a couple of projects where we are trying to

put together a large parcel. We are buying scattered pieces of property. My concern is that, somewhere in the future, we may not be able to tie every piece of property into this. We may have one piece that is separate from the others. It has been represented to me that we do not have the ability to dispose of a piece of property and buy another piece of property.

Ms. Goetz: One of the reasons that a draft ordinance was done prior to the vote was to answer some of those types of questions that we are unable to answer in the limited number of words we can use on the ballot. That's why that ordinance was drafted,

Mr. Coyle: Unfortunately, it did not answer all of those questions. Is there an argument about the ordinance itself? Is the ordinance clear?

Mr. Pettit: The ordinance addresses funding in three different paragraphs, one of which is the whereas clause. I do not believe it is absolutely accurate in describing what the referendum was. To me the referendum was to authorize bonds. There clearly was discussion in workshops prior to the referendum in raising as much as \$140 million through taxation at a quarter mill.

Ms. Prosser: May I just read this small paragraph from the ordinance.

WHEREAS ON TUESDAY, NOVEMBER 5TH THE ELECTORATE OF COLLIER COUNTY AUTHORIZED THE COUNTY TO LEVY A 0.25 MIL AD VALOREM PROPERTY TAX FOR A PERIOD NOT TO EXCEED TEN YEARS, FOR ACQUISITION, PROTECTION, RESTORATION, AND MANAGEMENT OF ENVIRONMENTALLY SENSITIVE LANDS IN COLLIER COUNTY FOR THE BENEFIT OF PRESENT AND FUTURE GENERATIONS.

So it is right up front in the language to answer your question about the ordinance. Ms. Goetz does make a great point. We did draft this ordinance in advance due to your recommendation, which we thought was excellent.

Mr. Coletta: It's too bad that the particular language was not on the ballot or we would not be here today.

Ms. Prosser: I think in part Mr. Pettit would support that we were told that we were limited to a small number of words for the referendum language. This is why the county attorneys believed you had to have language to authorize the bonding and that it why it was crafted in that way.

Ms. Goetz: If it says in an ordinance that everyone here approved, that it will be funded by a ¼ mill, why is that unclear?

Mr. Henning: What part of 'no' don't you understand?

Mr. Coletta: We are getting to the point now where it is getting to be irritating.

Ms. Goetz: I'm sorry; I didn't mean to be irritating.

Mr. Coyle: You're right though, I have the same problem with the tourist tax. The ordinance itself doesn't reflect what the original referendum asked for and from my standpoint I always go back to what people voted on instead of what I or our staff drafted as an implementing procedure. I think that is the proper way to proceed, citizens have accused us of taking the results of a referendum and drafting it in our own way to do something they didn't intend. That is what we are trying to avoid by taking it back to them.

Ms. Prosser: I think it is frustrating for all of us. I appreciate you trying to strictly look at what a voter would have seen when they walk into the booth and assume that's all they know. It's maddening, but I do understand the position you're taking. I do ask that someone summarize what was agreed to by you today.

IV. Public Comment, Q & A

NONE

V. Policy and Board Direction

Mr. Mudd: I believe that the voters voted on bonding up to \$75 million to purchase land and I believe the \$75 million to purchase land is an important item I believe that there is an implied piece that any money you borrow, i.e. bond, will have to be paid back I believe there was some statement in that referendum about maintenance

Mr. Pettit: I believe the word management was used.

Mr. Mudd: I believe in your ordinance you say something about 15%, is that correct.

Mr. Lorenz confirms this.

Mr. Mudd: Commissioners, I believe you have \$75 million worth of purchase; you have some interest payment if any of that amount is going to be borrowed and I believe you have 15% for management. I will leave that up to Mr. Lorenz to do the particular dollar figures, but I believe it will be somewhere around \$90 million or less.

Mr. Coyle: That's my recollection.

Mr. Schmitt: Just to clarify, the management fee is also the staff; the FTE just for the record, so there is no debate over that. That pays for maintenance plus the FTE out of Mr. Lorenz's budget.

Ms. Prosser: I want to make sure. \$75 million will be collected through a quarter mill increase?

Mr. Coyle: It will be more than that. You are authorized to purchase \$75 million of property with a bond issue of \$75 million and we will collect property taxes that will pay back those bonds and the management of the property.

Mr. Mudd: Is part of your direction to also direct staff to draft a referendum for 2006 to clarify the quarter mill over a ten year period of time.

Mr. Coyle: I would like you to do that, but is it something you have to do right now?

Mr. Mudd: It will be in 2006 but instead of having Ms. Prosser and Ms. Goetz come back and ask the board for a referendum, it would be nice if that is what you're directing staff to do so we can discuss how we want to make sure this is perfectly clear for 2006.

Ms. Goetz: I would also like to take this opportunity to compliment the staff that we, as a committee, have been working with. They are astonishing and we don't get this opportunity to tell you that but Ms. Sulecki, Mr. Lorenz, Mr. Pettit and everyone in the other departments have done such an outstanding job, it is really a pleasure and a privilege to sit on this board.

Mr. Coyle: Also for your entire group, I think you have been doing a great job.

Mr. Coletta: I do also. I just want Bill Mitchell to nod his head if he understood what we have just done.

Mr. Schmitt: Let the record reflect that Mr. Mitchell nodded affirmatively.

**There being no further business for the good of the County of Collier,
the meeting was adjourned at 2:56 PM.**