

MINUTES OF THE MEETING OF THE COLLIER COUNTY  
RURAL LANDS STEWARDSHIP AREA REVIEW COMMITTEE

Community Development and Environmental Services [CDES] Building; 2800 North Horseshoe Drive, Rooms 609/610, Naples, Florida, 34104; October 7, 2008

LET IT BE REMEMBERED, that the Collier County Rural Lands Stewardship Area Review Committee in and for the County of Collier, having conducted Business herein, met on this date at 9:00 A.M. in REGULAR SESSION at the CDES Building, Rooms 609/610 2800 North Horseshoe Drive, Naples, Florida, with the following members present:

CHAIRMAN, Ron Hamel  
VICE CHAIRMAN: Neno Spagna [left at 11am]  
Brad Cornell  
David Farmer  
Gary Eidson  
Bill McDaniel  
Tom Jones  
Tammie Nemecek  
Fred N. Thomas, Jr.

ALSO PRESENT: CDES staff members Heidi Ashton, Thomas Greenwood, and Laura Roys as well as approximately 15 members of the public.

**I. Call Meeting to Order**

The meeting was called to order at 9:03AM by *Chairman Ron Hamel*.

**II. Roll Call**

Roll call was taken, and a quorum was established as 9 of 12 members were present, with Floyd Crews, Jim Howard, and Dave Wolfley reported to be out of town.

**III. Approval of Agenda**

*Mr. Farmer moved to approve the agenda as presented and seconded by Mr. Eidson.*

*Voice Vote - Unanimously approved*

**IV. Approval of Minutes of the September 30, 2008 Meeting**

*McDaniel moved and seconded by Mr. Farmer to approve the minutes as distributed.*

*Mr. Hamel asked Mr. Greenwood to brief the Committee on several items as follows:*

- **Policy 1.6 and 1.7 language.** *Mr. Greenwood* distributed a document prepared by Assistant County Attorney Heidi Ashton and distributed internally on October 6 [attached]. He stated that the Committee may wish to review and, upon request of Attorney John Passidomo, may wish to table until he has an opportunity to review further. *Mr. Farmer* stated that he felt that the 5 year limit was severe and perhaps there could be one year extensions. *Heidi Ashton* clarified that the SSA owner could terminate the conditional SSA sooner than 5 years but that the LDC should have some definite language in it. After further discussion the Committee

took no action and encouraged *Ms. Ashton* to meet with John *Passidomo* and develop language to be brought back to the Committee as soon as October 14<sup>th</sup>.

- **Policies 4.4, 4.5, 4.7.1 and 4.14.** *Mr. Greenwood* reported that he was advised that there will be more discussions between Nick Casalanguida and ECPO this week and they will, hopefully, have language for Committee review on October 14<sup>th</sup>.
- *Mr. Greenwood* reviewed with the Committee the current SRA characteristics table [Attachment C] and the revised Attachment C. *Tammie Nemecek* pointed out that the minimum for a Town has been increased from 1000 acres to 1500 acres. *Mr. Greenwood* stated that he would make that change. *Mr. Farmer* stated that he does not favor an upper limit of density of 4 dwelling units per gross acre. *Brad Cornell* stated that this issue is worth talking about but that it would be wise to have an upper limit on density so that everyone knows how many dwelling units to plan for and that it provides some certainty. *Mr. Eidson* stated that his underlying concern with not having a density limit is impact on infrastructure and how the BCC would accept such an impact.
- *Mr. Greenwood* reviewed an updated schedule of the Committee through today which shows the Committee completing Group 5 Policies today. [attached]. *Mr. McDaniel* stated that Dr. Van Buskirk is committed to provide a presentation on October 14<sup>th</sup> and *Mr. Greenwood* stated that he would place on the October 14<sup>th</sup> Agenda if his availability is confirmed. *Mr. Farmer* stated that he would not be able to attend the October 28 meeting due to a conflict with a conference and *Mr. Hamel* stated that he also would not be able to attend the October 21 meeting due to a conflict. Other members indicated availability for the October 21 and October 28 meetings and the consensus was to plan to keep those meetings scheduled.

#### V. Presentations. [attached "Requests to the RLSA Review Committee"]

##### A. **James Hammond, Director of Historical Resources of Naples Backyard History..."Naples Cultural Landscape"**

*Mr. James Hammond* stated and covered the following:

1. The study was not done in time for the original RLSA Overlay development as this project has taken 9 years.
2. Reviewed the following maps: #1 Nine Sites from archaeological survey; #2 IVES Map done by Jefferson Davis; #3 Collier County Monument Map; #4 1973 Historical Jubilee Map of Collier County; #5 Map of Proposed Collier County Cultural Trail.
3. Reviewed his request to use stewardship credits to help develop a heritage trail.

*Mr. Jones* advised *Mr. Hammond* that one of their maps is incorrect and that there is no planned Ave Maria Phase 2 south of Oil Well Road. *Mr. Jones* asked *Mr. Hammond* if he had talked with any of owners of property over which the heritage trail is proposed. *Mr. Hammond* responded that he had not.

*Mr. McDaniel* moved and *Mr. Eidson* seconded to ask staff to review *Mr. Hammond's* proposals and report back to the Committee on October 14<sup>th</sup>. *Upon vote*, the motion carried unanimously.

#### VI. Old Business

##### A. **Phase 2... Review of Group 1-Group 5 Policies of the Rural Land Stewardship, including Issues, Concerns, and Questions [concentration on Groups 4 and 5 Policies] as well as data and analysis with respect to proposed revisions to the RLSA Overlay**

The following is a summary of discussions and Committee actions taken on Policies during its October 7, 2008 meeting.

**Group 5 - Policies that protect water quality and quantity and the maintaining of the natural water regime and protect listed animal and plant species and their habitats on land that is not voluntarily included in the Rural Lands Stewardship Area program.**

**Public Input:** none received

**Staff Comments:** none

**Committee Action:** The Committee took no action on the above statement.

## **Policy 5.1**

To protect water quality and quantity and maintenance of the natural water regime in areas mapped as FSAs and designated Flowway buffers on the Overlay Map prior to the time that they are designated as SSAs under the Stewardship Credit Program -, Residential Uses, General Conditional Uses, Earth Mining and Processing Uses, and Recreational Uses (layers 1-4) as listed in the Matrix shall be eliminated, ~~in FSAs~~. Conditional use essential services and governmental essential services, except those necessary to serve permitted uses or for public safety, shall ~~only~~ not be allowed in FSAs with a Natural Resource Stewardship Index value of 1.2 or less. Where practicable, directional-drilling techniques and/or previously cleared or disturbed areas shall be utilized for oil or gas extraction in FSAs in order to minimize impacts to native habitats. Asphaltic and concrete batch making plants shall be prohibited in areas mapped as HSAs. The opportunity to voluntarily participate in the Stewardship Credit Program, as well as the right to sell conservation easements or a free or lesser interest in the land, shall constitute compensation for the loss of these rights.

**Public Input:**

1. The Conservancy strongly supports regulation of land uses in the Habitat Stewardship Areas (HSA) and Flowway Stewardship Areas (FSA), regardless of whether the landowner participates in the RLSA program. This should include restrictions of some permitted and conditional uses and should include all lands, regardless of their participation in the RLSA. For example, on lands not voluntarily participating in the RLSA, Policy 5.1 removes use layers 1-4 within FSAs. However, Collier County should assess whether all agricultural activities are appropriate for FSAs, and potentially remove the more active agricultural uses as incompatible with protection of the quality, quantity and maintenance of the natural water regime in the FSAs. Within Policy 5.1, for HSAs, the only outright prohibition is for asphaltic and concrete batch making plants. The Conservancy believes this should be reassessed, with the opportunity to expand the prohibited uses within HSAs and FSAs. Also, Policy 3.7 specifically should be reassessed as to the allowances within HSAs. The Conservancy believes that golf courses, and other impacting uses, are incompatible with all HSAs. **[Conservancy]**

**ECPO Comments:** FSAs and HSAs were purposely defined broadly enough to allow a justified mix of habitat required for species and adequate land uses. The mix of land use activities within FSAs and HSAs are necessary to enable the delineation of the large interconnected systems.

The Group 5 policies collectively provide a set of minimum land development standards that apply only when a land owner does not participate in the RLS program. In the case of Policy 5.1, the FSA provision addresses a narrow issue of water quality within regional flow ways, where the more intensive land uses could impact offsite areas. Of the 31,100 acres of FSA, only 800 acres are active agriculture. Within the HSAs it has been confirmed by many biological experts, including Darrel Land who spoke with the RLS Committee, that species are very adept at utilizing and traversing agriculture lands.

**Note:** Brad Cornell 10-7-08 Proposal for this Policy is attached to these minutes along with ECPO responses to the original Group 5 public comments received from others.

**Public discussion on October 7, 2008**

**Mr. McDaniel** moved and **Mr. Cornell** seconded to accept Mr. Cornell's rewording of Policy 5.1 as provided to the Committee by Mr. Cornell this morning. **Mr. Jones** stated that he is opposed to the language proposed as Policy 5.1 is not broken and does not need fixing. **Mr. Cornell** stated that this is a way to ensure that development does not occur on the edge of the OK Slough and the Camp Keais Strand. **Mr. Jones** stated that the County may be subjecting itself to a taking of a property owner's rights and subject to litigation. **Mr. Cornell** stated that the owner would receive compensation if he chose to participate in the RLSAO. **Anita Jenkins** reiterated that would entail a property owner losing rights to use that land and that setbacks in the LDC may be the way to handle this. **John Passidomo** stated that if a landowner loses rights to use his land through a government action a Bert Harris violation would likely occur and the County could be subject to a lawsuit. **Mr. Cornell** asked about the loss of the use of land in the FSA that has already occurred. **Mr. Passidomo** stated that ECPO agreed to that previously. **Mr. Cornell** asked about the other property owners other than ECPO. **Mr. Passidomo** stated that those property owners could have exercised their right, but chose not to. **Mr. Thomas** stated that he felt the LDC could assist. **Nicole Ryan** stated the Conservancy supports Mr. Cornell's suggestions and that it should not wait to be addressed in the LDC. **Christian Spilker** stated that he thought the proper terminology is "restoration zone".

**Staff Comments:**

**Committee Action taken on October 7, 2008:** **Mr. Thomas** moved and **Mr. McDaniel** seconded that Policy 5.1 be amended by changing the period to a comma after the word "program" in the third line. **Upon vote**, the motion carried, 9-0. **Mr. Eidson** moved and **Mr. McDaniel** seconded to add the words, "and designated Floway buffers" [staff found that the wording should be, "designated Restoration Zones"] after "FSAs" in the second line and to change "only" to "not" in the second sentence. **Upon vote**, the motion carried, 9-0.

**Policy 5.2**

To protect water quality and quantity and maintenance of the natural water regime and to protect listed animal and plant species and their habitats in areas mapped as FSAs, HSAs, and WRAs on the Overlay Map that are within the ACSC, all ACSC regulatory standards shall apply, including those that strictly limit non-agricultural clearing.

**Public Input:** none received

**Staff Comments:** none

**Committee Action taken on October 7, 2008:** **Mr. Thomas** moved and **Mr. Eidson** seconded to leave Policy 5.2 unchanged. **Upon vote**, the motion carried unanimously.

**Policy 5.3**

To protect water quality and quantity and maintenance of the natural water regime and to protect listed animal and plant species and their habitats in areas mapped as FSAs, HSAs, and WRAs on the Overlay Map that are not within the ACSC, if a property owner proposes to utilize such land for a non-agricultural purpose under the Baseline Standards referenced in Policy 1.5 and does not elect to use the Overlay, the following regulations are applicable, shall be incorporated into the LDC, and shall supercede any comparable existing County regulations that would otherwise apply. These regulations shall only apply to non-agricultural use of land prior to its inclusion in the Overlay system:

1. Site clearing and alteration shall be limited to 20% of the property and nonpermeable surfaces shall not exceed 50% of any such area.
2. Except for roads and lakes, any nonpermeable surface greater than one acre shall provide for release of surface water run off, collected or uncollected, in a manner approximating the natural surface water flow regime of the surrounding area.
3. Revegetation and landscaping of cleared areas shall be accomplished with predominantly native species and planting of undesirable exotic species shall be prohibited.
4. An Environmental Impact Statement shall be prepared by the applicant and reviewed by Collier County in accordance with County regulations.
5. Roads shall be designed to allow the passage of surface water flows through the use of equalizer pipes, interceptor spreader systems or performance equivalent structures.

**Public Input:** none received

**Staff Comments:** none

**Committee Action taken on October 7, 2008:** *Mr. Thomas* moved and *Mr. McDaniel* seconded to leave Policy 5.3 unchanged. *Upon vote*, the motion carried unanimously.

#### **Policy 5.4**

Collier County will coordinate with appropriate State and Federal agencies concerning the provision of wildlife crossings at locations determined to be appropriate. A map of these potential crossing locations will be developed within 12 months of the effective date of the Growth Management Plan Amendment and used in evaluating community, cultural and historical, and transportation planning for the RLSA.

**Public Input:**

1. Stronger language for wildlife underpasses and a map of locations [FWF]

**ECPO Comments:** The RLSA program provides a tremendous framework for facilitating the establishment of wildlife underpasses, by protecting large expanses of habitat with SSA lands. The actual need assessments, locating, design, and construction of wildlife underpasses occurs through the efforts of state and/or federal wildlife and transportation agencies, either as part of public works projects or as part of the regulatory process for development projects. As one example, FWC researchers continually evaluate the need for panther crossings, and have maps of existing and proposed panther underpasses.

2. Panther deaths on 846 are mentioned, but not those on Rte 29 or 41 east, which are many. [**Judith Hushon**]

**ECPO Comments:** Panther deaths on Route 41 East are miles south of the RLSA, as are incidents on SR 29 south of the Sunniland mines. The panther-vehicle collisions on CR 846 east of Immokalee were considered when designating the FSA and HSA stewardship overlays in that area. SSA 3 and SSA 4 were later designated along that segment of CR 846 specifically to provide opportunities for future panther crossings.

3. FWC has documented the location of all known panther-vehicle collisions in a GIS database. This information, in conjunction with FWC's least cost path modeling of panther movements, has been and will be used to identify promising sites for additional panther crossings. The RLSA program facilitates the establishment of these wildlife underpasses by preserving existing land uses in the vicinity of the crossings.

**Note: Brad Cornell 10-7-08 Proposal for this Policy is attached to these minutes along with ECPO responses to the original Group 5 public comments received from others.**

**Public Discussion on October 7, 2008.** *Mr. Thomas* stated that he would have the word “cultural” added to the new sentence proposed by Mr. Cornell. *Mr. McDaniel* suggested eliminating the deadline of January, 2010 for the creation of the wildlife crossings map as that could be problematic. *Mr. Eidson* suggested making the date January, 2011. *Laura Roys* asked who is going to prepare the map and which study is it based upon. *Mr. Cornell* stated that the map to be used is that prepared for the Eastern Collier County Panther Study as the basis for crossing needs and for future used for site development plans, stewardship receiving areas, the MPO, etc. He stated that the map is essentially done. *Elizabeth Fleming* stated that the word “identified” would be better because the study has already identified such crossings. *Nancy Payton* gave a brief history of the development of the Panther Study.

**Staff Comments:** none

**Committee Action taken on October 7, 2008:** *Mr. Cornell* moved and *Mr. Eidson* seconded to amend Policy 5.4 as outlined above. *Upon vote*, the motion carried unanimously.

### **Policy 5.5**

For those lands that are not voluntarily included in the Rural Lands Stewardship program, non-agricultural development, excluding individual single family residences, shall be directed away from the listed species and their habitats by complying with the following guidelines and standards:

1. A wildlife survey shall be required for all parcels when listed species are known to inhabit biological communities similar to those existing on site or where listed species are directly observed on the site. The survey shall be conducted in accordance with the requirements of the Florida Fish and Wildlife Conservation Commission (FFWCC) and U.S. Fish and Wildlife Service (USFWS) guidelines. The County shall notify the FFWCC and USFWS of the existence of any listed species that may be discovered.
2. Wildlife habitat management plans for listed species shall be submitted for County approval. A plan shall be required for all projects where the wildlife survey indicated listed species are utilizing the site, or the site is capable of supporting wildlife and can be anticipated to be occupied by listed species. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats.
  - a. Management plans shall incorporate proper techniques to protect listed species and their habitats from the negative impacts of proposed development. Open space and vegetation preservation requirements shall be used to establish buffer areas between wildlife habitat areas and areas dominated by human activities. Provisions such as fencing, walls, or other obstructions shall be provided to minimize development impacts to the wildlife and to facilitate and encourage wildlife to use wildlife corridors. Appropriate roadway crossings, underpasses and signage shall be used where roads must cross wildlife corridors.
    - i. The following references shall be used, as appropriate, to prepare the required management plans:
      1. South Florida Multi-Species Recovery Plan, USFWS, 1999.
      2. Habitat Management Guidelines for the Bald Eagle in the Southeast Region, USFWS, 1987.
      3. Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations found on Lands Slated for Large Scale Development in Florida, Technical Report No. 4, Florida Game and Fresh Water Fish Commission, 1987.

4. Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay (*Apelocoma coerulescens*), Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991.
  5. Ecology and Habitat Protection Needs of the Southeastern American Kestrel (*Falco Sparverius Paulus*) on Large-scale Development Sites in Florida, Nongame Technical Report No. 13, Florida Game and Fresh Water Fish Commission, 1993.
- ii. The County shall consider any other techniques recommended by the USFWS and FFWCC, subject to the provision of paragraph 3 of this policy.
  - iii. When listed species are directly observed on site or indicated by evidence, such as denning, foraging, or other indications, a minimum of 40% of native vegetation on site shall be retained, with the exception of clearing for agricultural purposes. The County shall also consider the recommendation of other agencies, subject to the provisions of paragraph 3 of this policy.
- b. For parcels containing gopher tortoises (*Gopherus polyphemus*), priority shall be given to protecting the largest most contiguous gopher tortoise habitat with the greatest number of active burrows, and for providing a connection to off site adjacent gopher tortoise preserves.
  - c. Habitat preservation for the Florida scrub jay (*Apelocoma coerulescens*) shall conform to the guidelines contained in Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991. The required management plan shall also provide for a maintenance program and specify an appropriate fire or mechanical protocols to maintain the natural scrub community. The plan shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain the scrub vegetation. These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, subject to the provisions of paragraph (3) of this policy.
  - d. For the bald eagle (*Haliaeetus leucocephalus*), the required habitat management plans shall establish protective zones around the eagle nest restricting certain activities. The plans shall also address restricting certain types of activities during the nest season. These requirements shall be consistent with the UFWS South Florida Multi-Species Recover Plan, May 1999, subject to the provisions of paragraph (3) of this policy.
  - e. For the red-cockaded woodpecker (*Ipicoides borealis*), the required habitat protection plan shall outline measures to avoid adverse impacts to active clusters and to minimize impacts to foraging habitat. Where adverse effects can not be avoided, measures shall be taken to minimize on-site disturbance and compensate or mitigate for impacts that remain. These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, subject to the provision of paragraph 3) of this policy.
  - f. In areas where the Florida black bear (*Ursus americanus floridanus*) may be present, the management plans shall require that garbage be placed in bear-proof containers, at one or more central locations. The management plan shall also identify methods to inform local residents of the concerns related to interaction between black bears and humans. Mitigation for impacting habitat suitable for black bear shall be considered in the management plan.
  - g. For projects located in Priority I or Priority II Panther Habitat areas, the management plan shall discourage the destruction of undisturbed, native habitats that are preferred by the Florida panther (*Felis concolor coryi*) by

directing intensive land uses to currently disturbed areas. Preferred habitats include pine flatwoods and hardwood hammocks. In turn, these areas shall be buffered from the most intense land uses of the project by using low intensity land uses (e.g., parks, passive recreational areas, golf courses). Gold courses within the Rural Lands Area shall be designed and managed using standards found within this Overlay. The management plans shall identify appropriate lighting controls for these permitted uses and shall also address the opportunity to utilize prescribed burning to maintain fire-adapted preserved vegetation communities and provide browse for white-tailed deer. These requirements shall be consistent with the UFWS South Florida Multi-Species Recover Plan, May 1999, subject to the provisions of paragraph (3) of this policy.

- h. The Management Plans shall contain a monitoring program for developments greater than 10 acres.
3. The County shall, consistent with applicable policies of this Overlay, consider and utilize recommendations and letters of technical assistance from the Florida Fish and Wildlife Conservation Commission and recommendations from the US Fish and Wildlife Service in issuing development orders on property containing listed species.

It is recognized that these agency recommendations, on a case by case basis, may change the requirements contained within these wildlife protection policies and any such change shall be deemed consistent with the Growth Management Plan.

**Note:** Brad Cornell 10-7-08 Proposal for this Policy is attached to these minutes along with ECPO responses to the original Group 5 public comments received from others.

**Public Discussion on October 7, 2008**

*Mr. Jones* stated that the County already has language in paragraph 1 as is proposed by *Mr. Cornell*. He stated that in paragraph 2g he is not even familiar with this document or the standards. *Mr. Cornell* stated that the intent is clarify things. He further stated that the language in paragraph 3 comes from the Conservation and Coastal management Element of the GMP. *Elizabeth Fleming* stated that Brad is trying to find a standard for other listed species. Most other species are already covered. She also stated that the language in this Policy needs to be updated to cite more current information and studies. She stated that in paragraph 2g she would like to see something for Panthers. She stated that she supports Brad's recommendations. *Mr. Eidson* stated that the species plan deals with 68 listed species. *Mr. Jones* stated that he is ok with citing more updated studies, but we should not have to have a litany of 68 studies listed in the RLSAO. *Dane Scofield* stated that he is concerned about listed species and how a temporary use would have to comply with state and federal requirements. *Mr. Cornell* stated that this is something he may have to work out with the state or federal agency. [discussion ended here to lack of additional time].

**Public Input:** none received

**Staff Comments:** none

**Committee Action on October 7, 2008:** Motion by *Mr. Cornell* that his proposed amendments to Policy 5.5 be approved and seconded by *Mr. Eidson* to approve the proposed amendments advanced by Brad Cornell. [action on the motion and second was tabled until the October 14<sup>th</sup> meeting and no action was taken due to meeting the end of the meeting deadline].

**VII. New Business** [none]

**VIII. Public Comments.**



**IX. Next Meeting**

**Mr. Hamel** stated that the next meeting will be held on October 14, 2008, in Rooms 609/610 of the CDES Building, 2800 North Horseshoe Drive, in Naples, Fl. from 9:00 A.M. – 11:30 A.M.

**X. Adjournment**

**Mr. McDaniel** moved to adjourn the meeting, seconded by **Mr. Eidson** with the motion approved unanimously with adjournment at 12:02PM.

**Rural Lands Stewardship Area Review Committee**

  
\_\_\_\_\_  
**Ron Hamel, Chairman**

These minutes approved by the Committee on 10-14-08, as presented X or as amended \_\_\_\_\_

## DRAFT – FOR DISCUSSION PURPOSES

### (VII) Policy 1.6

Stewardship Credits (Credits) are created from any lands within RLSA that are to be kept in permanent agriculture, open space or conservation uses. These lands will be identified as Stewardship Sending Areas or SSAs. All privately owned lands within the RLSA are a candidate for designation as a SSA. Land becomes designated as a SSA upon petition by the property owner seeking such designation and the adoption of a resolution by the Collier County Board of County Commissioners (BCC), which acknowledges the property owner's request for such designation and assigns Stewardship Credits or other compensation to the owner for such designation. Collier County will update the Overlay Map to delineate the boundaries of each approved SSA. Designation as an SSA shall be administrative and shall not require an amendment to the Growth Management Plan, but shall be retroactively incorporated into the adopted Overlay Map during the EAR based amendment process when it periodically occurs. A Stewardship Agreement shall be developed that identifies those allowable residential densities and other land uses which remain. Once land is designated as a SSA and Credits ~~or other compensation~~ are granted to the owner, no increase in density or additional uses unspecified in the Stewardship Agreement shall be allowed on such property, unless the SSA and Stewardship Agreement are terminated. The SSA may be terminated by the owner for a period of up to five years after approval of the SSA if the Stewardship Credits have been assigned to an approved Sending Receiving Area (SRA), and the SRA has not received final development orders or Federal, State and local permits necessary to commence construction excluding plat approval, site development plan approval and building permit approval. The SSA shall not be terminated if owner has sold the Stewardship Credits or if owner has received compensation in exchange for the credits.

### (VII) Policy 1.7

The range of Stewardship Credit Values is hereby established using the specific methodology set forth on the Stewardship Credit Worksheet (Worksheet), incorporated herein as Attachment A. This methodology and related procedures for SSA designation will also be adopted as part of the Stewardship Overlay District in the Collier County Land Development Code (LDC). Such procedures shall include but not be limited to the following: (1) All Credit transfers shall be recorded with the Collier County Clerk of Courts; (2) a covenant or perpetual restrictive easement shall also be recorded for each SSA, shall run with the land and shall be in favor of Collier County, Department of Environmental Protection, Department of Agriculture and Consumer Services, South Florida Water Management District, or a recognized statewide land trust, which may be modified or terminated if the SSA and Stewardship Agreement are terminated; and (3) for each SSA, the Stewardship Agreement will identify the specific land management measures that will be undertaken and the party responsible for such measures.

## PHASE II REPORT PREPARATION SCHEDULE AND REPORT FORMAT

### REVIEW COMMITTEE DIRECTION

August 5, 2008 [updated through October 7, 2008]

#### SCHEDULE

##### **A. REMAINING REVIEW COMMITTEE MEETINGS**

- September 2...RLSA Overlay Review [CDES]
- September 16...RLSA Overlay Review [CDES]
- September 23...RLSA Overlay Review [CDES]
- September 30..... RLSA Overlay Review [CDES]
- October 7...RLSA Group 5 Policies [CDES]
- October 14...RLSA remaining Group 4 transportation-related Policies, Policy 1.6, and Data and Analysis [CDES]
- October 21....Draft Report Review?? [CDES]
- October 28...Final Review and wrap up for Phase 2 Report [CDES]

##### **B. PUBLIC VETTING MEETINGS**

- November 12....Environmental Advisory Council
- December 1.....Planning Commission
- January 29, 2009...Board of County Commissioners
- February 27, 2009....Department of Community Affairs

#### PHASE 2 REPORT FORMAT AND CONTENTS

The following is format approved by the Review Committee on August 5, 2008:

- **COVER**
- **TRANSMITTAL LETTER with 2 maps:** 1] "Collier County Rural & Agricultural Area Assessment Stewardship Overlay Map; 2] "RLSA Status Map" which shows all approved Stewardship Sending Areas and the one approved Stewardship Receiving Area, The Town of Ave Maria.
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- **EXECUTIVE SUMMARY**
- **COMMITTEE- RECOMMENDED AMENDMENTS TO THE RURAL LANDS STEWARDSHIP AREA OVERLAY**
  - a. **Short Version Annotated**
  - b. **Long Version Annotated**
- **DATA AND ANALYSIS**
- **APPENDICES**

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**To: C.D.E.S. Division**  
**Joseph Schmit, Division Administrator -**

**From: Naples Cultural Landscape: A Fund at the Community Foundation of Collier County**  
**Lavern Norris Gaynor, Founder; Lois A Bolin, Ph.D., Strategic Advisor**

**Date: October 7, 2008**

**Re: Requests to the R.L.S.A. Review Committee**

Statement: Under the direction of the Dept. of Community Affairs a program was started and implemented under Florida Statute 9J-5.026 entitled the Rural Lands Stewardship Area (R.L.S.A.). On the first page of that programs texts Item # 1 states- the: Purposes of the R.L.S.A. Program and Item # 2 states the Purpose of the R.L.S.A. Rule. Under the Standard Option of those purposes # 8 Section B states as Item # 1 : Identify and explain the existing locally specific rural character of the R.L.S.A. and surrounding area by analyzing its characteristics, including Land use, Development Patterns, and Economic, Social, Cultural, Historic, Scenic, Landscape, Recreational and Environmental Elements. The data and analysis shall include under: Section # 2 Item-1: All forms of rural resource values including Agriculture; Environmental, Eco Systems, Wildlife Habitat, and Water Resources; Recreational, Tourism, Scenic; Cultural, and other general amenity Values.

Statement: Under the Special Option for R.L.S.A. of 50,000 or more Contiguous Acres – Section 7 Item B, Goals and Objective, and Policies - # E, states; A visionary Process to provide public participation in the design of any new town or Rural Village. Under the same section –B, Goals and Objectives, B- Item 10 states; The recording of a Stewardship easement or Restrictive covenant running with the land in Perpetuity on all designated Conservation and Agricultural areas in favor of the County, the Dept. of Environmental Protection, and the Dept. of Agriculture and Consumer Services.

Interpretation; It is with the above statements that the Naples Cultural Landscape, a Fund of the Community Foundation of Collier County, a 501 (C)(3) non for profit organization along with the support of various other non for profit organizations mostly representing the general charters of Historical Societies which encompass the policies of Documenting, Recording, Archiving, and Interpreting to the general public all areas pertaining to the past Historical and Cultural themes represented in the past History and Heritage of Collier County that we do hereby request these additions and /or revisions be reviewed and entered where possible into the R.L.S.A.O. policies presently being amended and drafted by the various committees.

The Historical and Cultural aspects of Collier County's past during the establishment of the first Rural Lands Stewardship Area committee's meetings, plans, and discussions that took place in early 1999 through 2002 unfortunately were not addressed in any way. This was due to the fact that an accurate Historical and Cultural Resource Assessment had not been completed and in essence, had not even been started until 2003. It has taken over 5 years to complete the study and it was realized that any plans that were being discussed in the new R.S.L.A.O. reviews should include the information that was found in the study, but more important during that time a plan had been conceived that could incorporate the objectives and Goals that the present R.L.S.A.O. committee's and interested parties, most notably landowners, developers, planners, economic advisors, tourism concerns, transportation concerns, and more importantly as these meetings that have been going on for many years the concerns about the Florida panthers and wide variety of other wildlife that would in the end somehow incorporate the rich historical and Cultural past of Collier County. On the surface this would seem an Utopian ideal until you realize the fact that according to the Department of State, Division of Historical Resources states that in 2007 tourists brought into Florida over 4.7 Billion dollars, 763 million of that went directly to South Florida with 49 (percent) directly attributable to people who sought out in their specific destinations areas that had Historical sites and places. This is a 60% increase over the last 4 years and those figures are expected to double in the next 5 years and exponentially thereafter. Taken with the fact that one organization and (there are over a half a dozen more) The Florida Communities Trust allocated 73 million dollars last year to projects that secured Stewardship Credits, purchased land for Preserves, Parks, Wildlife Habitat, Green Space, as well as Cultural and Historical Preservation. As secretary of the Dept. of Community Affairs Tom Pelham said "Over the past 17 years, these awards will help communities achieve their vision of Stronger, Greener and Healthier landscapes". As it is spoken of in the Historical and Cultural study over 80% of Collier County's land has transitioned from the hands of the Landowners and Collier County Government into private State and Federal entities in the last 34 years. This leaves the remaining 20% available for practical use by the County and landowners in the near future. This displays the simple fact that in the final phases of build-out the County, Landowners, Planners, Committee Members, and other organizations are to paraphrase the saying 'Trying to describe an Elephant just by its head'. Understanding that since the inception of the Everglades National Park was established in 1947 and other 4 State and Federal preserves established since have implemented only policies that mainly address Biological concerns. The Human element has taken a back seat as can be seen in the fact that that with over 1 million acres under the different park management systems in the last 61 years, not one site located on these lands has been registered on the National Register of Historic Places where the public can have access to today and enjoy. In the final phases of this visioning process it becomes apparent that if the goals and objectives to "connect the dots" do not find their fulcrum point and the visions so earnestly sought will be like clouds without water. If the only Goal is to build houses and communities without incorporating the past History and Cultures that S.W. Florida has always had an association with the uniqueness that can so easily be applied simply leaves way to "offering nothing more than any other community. To distinguish the South West coast from the east coast would be one of the greatest assets in a financial way. It goes without saying that hundreds of thousand of hours labor are going into the planning stages and untold millions of dollars have been and are being utilized to apply strategies that in the end will tie into and apply to the final 'Horizon Picture' it would be constructive to pause and remember that old and well applied adage "That a million monkey's typing on a million typewriters for a million years will never be able to write a Shakesperian play" To simply rely on the phrase - If you build it they will come should also seek to have a caveat added - They will if there is something to come to. To speak only of Natural Resources and their future conservation as the only biological consideration in this County and fail to not recognize that the Historical and Cultural Heritage of the past residents and the type of individual lifestyle is one of the most important ingredients in that term referred to as Natural Resources.

Therefore the Goals and Objectives proposed by the Naples Cultural Landscape organization in conjunction with other interested parties and organizations collectively speaking on the Historical and Cultural Heritage policies that make up the largest part of these organizations goals state and seek to initiate:

1. Stop the de-designation process that removed the Historic and Cultural attributes of U.S. 41 (Tamiami Trail) and is currently in the process of removing;
  - A. The 1988 designation of the trail by the State as a- Florida Scenic Highway
  - B. The 2000 designation of the trail by the Federal Government as a- National Scenic Byway
2. Installation of Historical Markers and Interpretive Centers and/or Kiosks along the entire distance of U.S. 41 (Tamiami Trail) stretching from the City of Naples to the Dade County border that will represent Collier County's past History and Cultural Heritage. This will direct tourism and interest from the east coast and west coast sections that will culminate on Highway # 29.
3. Installation of Historical Markers and Interpretive Centers and/or Kiosks along the entire distance of Highway # 29 from the south on U.S. 41 north to Immokalee City that will represent the Collier County's past History and Cultural Heritage as it relates to the past;
  - A. Historic lumber towns, Settlements, Farming towns, Oil producing towns [Sunniland], First Collier County Citrus producing groves, The first Collier County Citrus Canning plant, the first Railroad in Collier County both passenger and commercial [Deep Lake]-Since Deep Lake is one of only 5 sinkhole lakes in Florida and has freshwater on its first layer and saltwater on its lower layer with a resident population of Alligators and Crocodiles living together it would be expected to draw over 1 million visitors a year.
  - B. Seeking cooperation to open Deep Lake to the general public as it was for the first 106 years of its operation [not currently open to the general public] and having a boardwalk installed.
  - C. Seeking cooperation to turn the now presently closed Old Copeland Prison into a Pioneer Museum [This will involve seeking the N.P.S. to return the # 1 Ice Tidewater Cypress Company steam train that is presently in the Steamtown Collection in Scranton Pennsylvania] This will have a positive flow on all visitors and tourists and seek to draw them to the new Development taking place in the R.I.S.A. area and Immokalee City area.
4. Seek cooperation from landowners to Register Fort Simon Drum- [a known and monumented site by David Graham Copeland in 1941]. This site is presently 6 miles east of Immokalee City one half mile south of Immokalee Road and would be just on the east side of the new proposed bypass road that will connect to the road north of Immokalee City. The Fort Simon Drum site is an early Army Seminole War fortification and is the only known site of a military installation in South West Florida South of the Caloosahatchee River and it is expected that it would draw over 2 million visitors and tourists a year.
5. Seek cooperation with landowners and developers to have Historical Markers or Kiosks interpreting Collier County's past Historical and Cultural Heritage displayed placed at designated parks and open green spaces in the future planned developments. One example of the benefits of such a cooperative agreement is the fact that in 2002 prior to development at the Ave Maria first phase site an expensive Archaeological Survey was required by the State to try to locate a past Historic site which the owners thought at that time to be the location of Fort Doane an early Army Seminole War fortification site. The investigation was done and the required paperwork was completed allowing the continuation of development. This resulted in a coordinated effort on the part of several research centers to try to accurately identify the previously mentioned site.

This in turn led to the eventual recording of 9 more sites in the area on 09/09/2008- State File Survey #15576 thereby requiring an additional nine more Archaeological investigative studies being required before development could proceed at any of those locations in and around the Phase 2 area and the proposed Big Cypress Development, with at least 3 of those new sites in the northern part of the R.L.S.A. This process has been described as a cycle that continually [feeds on itself] Furthermore it was discovered that the correct name of the supposed Fort Doane site had already been previously recorded as the site of Camp Keais and an Archacological survey might have been avoided. The original form has now been updated on the Florida Master Site Files to indicate this name change. This is a clear case of how cooperation between parties would have been beneficial in concrete financial ways. As it is expected that at least 20-30 possible new locations involving Historical Resources in the northern area of the R.L.S.A. and the high probability that 5 or more of those sites have to do with Native American Sacred Sites [Federal] it financially behooves all landowners, developers, and researchers to try to cooperate on any obstacles that would impede any part of the new and growing vision. One of the proposed solutions would be to bypass the past processes that are costly and paper riddled on each end and just agreeing to incorporate a basic preset number of interpretive markers or kiosks in any of the proposed Towns, Villages, or Hamlets in any the public greenways or parks. This would serve to display the past History and Culture of the county. This in effect is a visionary way in which cooperation can enhance the value and desirability of any proposed community and fits well with the rural character these new homes seek to display. As the Collier County Museum already has the equipment to make these markers there would be minimal costs associated with such a plan.

6. Seek to establish at a minimum one continuous Historical and Cultural Heritage Trail unimpeded and without any Conservation easement restrictions that stretches from the eastern corridor of the R.L.S.A. to the western corridor of the proposed R.L.S.A.
7. Seek to establish at a minimum one continuous Historical and Cultural Heritage Trail unimpeded and without any Conservation easement restrictions that stretches from the southern corridor of the R.L.S.A. to the northern corridor of the proposed R.L.S.A.

#### **STATEMENT:**

Although it is understood that that many of the Environmental, Wildlife, and other numerous agencies including those that have to do with representing the Natural Resources and Endangered Species legislation have been working on policies that directly and indirectly have relation to the present R.L.S.A. Processes, Goals, and Objectives, that were started in 1999 and have now been continuing until the present time in 2008, on behalf of the people and organizations that were not included [up to speed] in regards to the Historical and Cultural ideals that the original provisions that were envisioned when the Purpose of the Rules found in D.C.A.s. guidelines came to public attention and speaking on behalf of those interests now found in the capacity of being a representative of those voices would ask that a small amount of extra time be given to the following statements which most display our unified concerns.

- A. That it be recognized that an accurate and up to date Historical and Cultural Resource study has never been conducted in Collier County since its inception in 1923 until it was presented to committee members on September 30, 2008.
- B. That a total of 9 new Historical sites comprising a 166 year total span of a timeline of Collier County's past has been for the first time accepted by the State of Florida 32 days ago.

- This should be accepted as a good faith effort considering these items were presented to this committee being specifically mentioned- Purposes of rules of the D.C.A. Objectives and Goals- # 1-Standard Options and # 2 Special Options relating to Historical and Cultural values.

Therefore having established the items found on these pages 2, 3, and 4 the following comments are added for the review now taking place on October 7, 9 am. Room 609, on Policy 5, however please find other comments on policies that may also apply to the present meeting but nevertheless need to be entered into the appropriate sections for public comment for those specific policies when the committee has the time.

**Policy 5.4**

No right of way to be relinquished by the County for Panther crossings on anywhere on highway # 29 if crossings block way of known Historical sites. As there are a preponderance of past known sites starting at U.S. 41 and heading north to just south of Immokalee City totaling 10- they are protected under the F.D.O.T. Cultural Resource book- 2008 Fla. Statutes Title 18-Public Lands and Property -Chapter 267 Historical Resources 267.021- (3) "Historic Property" or "Historic Resource" means any Prehistoric or Historic District, site, building, object or other real or personal property of Historical, Architectural value and Folklife resources. These properties or resources may include but are not limited to, monuments, Memorials, Indian Habitations, Ceremonial Sites, Abandoned Settlements, Sunken Ships, Engineering Works, Treasure Trove, Artifacts, or other objects with Historical or Archaeological Value, or any part thereof relating to the History, Government and Culture of the State.

267.021-(4) Preservation or Historic Preservation means Identification, Evaluation, Re-documentation, Analysis, Recovery, Interpretation.

? Has F.L.D.O.T. complied with Public Law 89-665, as amended regulations (36 CFR Part 800-revised 1/11/01 Executive Order 11593 Chapter 267 (F.S. Revised 2001), N.E.P.A. 91-190, D.O.T.A. ACT 1966 Public Law 89-670

1. For all Phases of work on Highway # 29
2. For all Phases of work on Oil Well Road
3. For all Phases of work on # 846
4. For all Phases of work on Camp Keais Road
5. For preliminary plans on # 29 Bypass Road
6. For all Phases of work on # 858

**Policy 1.2**

Clarify how R.L.S.A.O. interacts with the Florida Greenway and Trails Act – 2008 Fla. Statutes title 18 Chapter 260 -260.012 Item 1 and 2, 3B, and 6-A,D,E,F [Naples Cultural Landscape]

**Policy 1.6**

No emphasis is put on the Historical Transportation Routes from the south to the north or the west to the east in the present SSAs. [Naples Cultural Landscape]

**Policy 1.7**

Historical Interpretation markers, Kiosks, and Cultural Heritage should be allowed to be built south of Oil Well Road and should have road access planned for them. [Naples Cultural Landscape]

Review easement language and policies to prevent F.W.C. from holding all easements. All easements should go to the County for the Cultural and Heritage Trail. [Naples Cultural Landscape]



Stewardship easements should be held by private entities –Florida Community Trust provided 630 million dollars between 2007 and 2008 and have encouraged and fostered public and private partnerships. [Naples Cultural Landscape]

S.S.A. Credit agreements should include the Department of Community Affairs and Florida Forever programs as the signatories. [Naples Cultural Landscape]

**Policy 1.11**

Do not remove all the layers in the matrix until a Historic and Cultural study has been done to see how the past pioneers used the Natural Resources of the land. If a critical layer is removed in respect to a Historic or Cultural site all future uses and activities in that layer are eliminated forever [Naples Cultural Landscape]

**Policy 1.12**

Presently only credits for S.R.A. can be transferred for lands that meet the defined Suitability Standard in the R.L.S.A. for S.R.A.s but language needs to be established to encompass criteria for Historic and past Cultural sites. [Naples Cultural Landscape]

**Policy 1.13**

Do the procedures for the transfer of credits include language for Historical or Cultural Resources since Stewardship credits do not require any G.M.P. amendments. [Naples Cultural Landscape]

**Policy 1.18**

Have any studies been implemented to see where the highest ground available can be used for the Historical or Cultural Heritage Trail and will it have a high enough ground elevation so that it will not be prone to flooding? [Naples Cultural Landscape]

**Policy 1.20**

Is there a provision or a percentage allocated for any educational programs that interpret to the public any part of a Historical or Culturally related theme in the Trust. Are there any incentives to owners to sell Credits that will go for any programs that have to do with the county's past history? [Naples Cultural Landscape]

**Policy 4.7.1**

If towns are described as having "Individual Identity and Character" to what extent will the interpretation in the community parks allow for Historic or Cultural values and is there a certain percentage in space or funds allocated in the plans or designs and what will the towns display or incorporate to educate the public about the county's Cultural past. [Naples Cultural Landscape]

**Policy 4.7.2**

If villages have "Character" scaled to each particular village to what extent does this parallel extend to in the parks and Green Spaces on a Historical level and what association does this have with the past Cultural Heritage of the past small towns of Collier County [Naples Cultural Landscape]

**Policy 4.7.3**

To what extent will the communities in the Hamlets contribute to the Historical and Cultural values that were a past part of the county's history and how will this be reflected in their public Green Spaces. [Naples Cultural Landscape]

**Policy 4.9**

Public access should be allowed on all right of ways, Stewardship easements or Conservation easements in any area of land that is rated in A.N.R.I. index of 1.2 or higher. By restricting any Greenways or Buffer Zones the Historical and in particular the Cultural and scenic resources of the land will not allow for full enjoyment of any future proposed Historical and Cultural Heritage trail and will limit Eco Tourism to unsatisfying scenic endeavors. Since there is only 2 % of lands that will qualify for a 1.2 or higher rating the absolute best lands must be used on the trail and an exception in the language must be made as it will be the County's only chance to interpret to the public in the true scenic beauty of the land. [Naples Cultural Landscape]

**Policy 4.11**

Where existing Agricultural activity joins a S.R.A. the design of the S.R.A. should not have more than two geographical sides connecting either in tandem or opposite that will impede any recreation/open space for a better possibility of having a more pleasing environment. [Naples Cultural Landscape]

**Policy 4.20**

For clarification all language spoken of as "Public Benefit" should include whether this means -Public access. [Naples Cultural Landscape]

How do you quantify a percentage of Public Benefit relating to Towns, Villages, and Hamlets and is there a certain portion of "Public Benefit" that has in any tangible way a reflection of any part of Collier County's past Culture or Heritage. [Naples Cultural Landscape]

October 6, 2008

Mr. Thomas Greenwood  
Principal Planner  
Comprehensive Planning Department  
2800 North Horseshoe Drive  
Naples, FL 34105

Re: Collier County RLSA Phase II Policy Group 5

Dear Mr. Greenwood:

Our firm, together with WilsonMiller, Inc., represents Alico, Inc., Pacific Tomato Growers, Barron Collier Company, Consolidated Citrus, Priddy Farm, Half Circle L Ranch, Ranch One Coop., English Properties, and Collier Enterprises, who collectively comprise the "Eastern Collier Property Owners" or ECPO in the ongoing review of the Collier County Rural Lands Stewardship Area ("RLSA").

Pursuant to the established procedures for the 5-year review of the RLSA program, we offer the following comments and recommendations for consideration by the Committee during the Phase 2 process currently underway.

In this letter we will offer our comments and recommendations related to Policy Group 5.

### **Group 5 Policies**

#### **Policy 5.1**

1. The Conservancy strongly supports regulation of land uses in the Habitat Stewardship Areas (HSA) and Flowway Stewardship Areas (FSA), regardless of whether the landowner participates in the RLSA program. This should include restrictions of some permitted and conditional uses and should include all lands, regardless of their participation in the RLSA. For example, on lands not voluntarily participating in the RLSA, Policy 5.1 removes use layers 1-4 within FSAs. However, Collier County should assess whether all agricultural activities are appropriate for FSAs, and potentially

remove the more active agricultural uses as incompatible with protection of the quality, quantity and maintenance of the natural water regime in the FSAs. Within Policy 5.1, for HSAs, the only outright prohibition is for asphaltic and concrete batch making plants. The Conservancy believes this should be reassessed, with the opportunity to expand the prohibited uses within HSAs and FSAs. Also, Policy 3.7 specifically should be reassessed as to the allowances within HSAs. The Conservancy believes that golf courses, and other impacting uses, are incompatible with all HSAs.

**ECPO Comments:** FSAs and HSAs were purposely defined broadly enough to allow a justified mix of habitat required for species and adequate land uses. The mix of land use activities within FSAs and HSAs are necessary to enable the delineation of the large interconnected systems.

The Group 5 policies collectively provide a set of minimum land development standards that apply only when a land owner does not participate in the RLS program. In the case of Policy 5.1, the FSA provision addresses a narrow issue of water quality within regional flow ways, where the more intensive land uses could impact offsite areas. Of the 31,100 acres of FSA, only 800 acres are active agriculture. Within the HSAs it has been confirmed by many biological experts, including Darrel Land who spoke with the RLS Committee, that species are very adept at utilizing and traversing agriculture lands.

#### **Policy 5.4**

2. Stronger language for wildlife underpasses and a map of locations

**ECPO Comments:** The RLSA program provides a tremendous framework for facilitating the establishment of wildlife underpasses, by protecting large expanses of habitat with SSA lands. The actual need assessments, locating, design, and construction of wildlife underpasses occurs through the efforts of state and/or federal wildlife and transportation agencies, either as part of public works projects or as part of the regulatory process for development projects. As one example, FWC researchers continually evaluate the need for panther crossings, and have maps of existing and proposed panther underpasses.

3. Panther deaths on 846 are mentioned, but not those on Rte 29 or 41 east, which are many.

**ECPO Comments:** Panther deaths on Route 41 East are miles south of the RLSA, as are incidents on SR 29 south of the Sunniland mines. The panther-vehicle collisions on CR 846 east of Immokalee were considered when designating the FSA and HSA stewardship overlays in that area. SSA 3 and SSA 4 were later designated along that segment of CR 846 specifically to provide opportunities for future panther crossings.

FWC has documented the location of all known panther-vehicle collisions in a GIS database. This information, in conjunction with FWC's least cost path modeling of panther movements, has been and will be used to identify promising sites for additional panther crossings. The RLSA program facilitates the establishment of these wildlife underpasses by preserving existing land uses in the vicinity of the crossings.

#### **Policy 5.6**

4. The actual ability to develop in the RLSA under the standard zoning did not include an analysis of what amount of non-jurisdictional lands could actually be permitted. This

produced a false sense of urgency to protect environmentally sensitive land that in reality may never have been allowed to be improved. Even as 5 or 10 acre homesites, the ability to infringe upon wetlands is limited.

**ECPO Comments:** An analysis of the specific jurisdictional wetland permitting conditions of the entire 300 square mile RLS was not within the scope of the Rural Land Study, nor is such an analysis required for comprehensive planning. Further, as the RLSA is an optional overlay, it is an alternative to development under the existing zoning, not a replacement.

The standard zoning of the entire RLSA is Agriculture. Under this zoning, a wide range of land uses are permitted by right or conditional use that can have impacts to jurisdictional areas, including the full range of agricultural activities, farmworker housing, commercial excavations, and residential development. Under the standard zoning, land ownership can be subdivided and fragmented in ways that compromise wetland and habitat connectivity. Once this occurs, it is very expensive and difficult to reassemble land into manageable systems (Southern Golden Gate Estates). The RLSA creates incentives for more sustainable and environmentally sound patterns of protection and development on a landscape basis.

In addition, many environmentally sensitive lands within the RLSA are not jurisdictional wetlands, yet provide important habitat for Florida panther, Florida black bear, Big Cypress fox squirrel, and other listed species. Large areas of non-jurisdictional land are included in Habitat Stewardship Areas, particularly where these occur in proximity to native vegetated areas or flowways.

The "sense of urgency" for protecting environmentally sensitive lands pre-dates the RLSA, and in fact was a key catalyst that led to the establishment of the Final Order, the Rural Lands Study, and the resulting RLSA program. The Florida Forever program (and its predecessors) targeted the CREW lands (Camp Keais Strand) and the Okaloacoochee Slough long before the creation of the RLSA. Various state and federal analyses projected strong development pressures on wetlands within the RLSA before the RLSA program was created. The South Florida Ecosystem Restoration program predicates much of its land acquisition strategy on potential wetland losses and landscape-scale fragmentation.

We appreciate the opportunity to offer these comments and recommendations to you and look forward to discussing any questions you or the Committee may have concerning them.

Very truly yours,

John M. Passidomo  
For the Firm

### **Policy 5.1**

To protect water quality and quantity and maintenance of the natural water regime in areas mapped as FSAs and lands described in Policy 3.12 surrounding the Camp Keais Strand and Okaloacoochee Slough on the Overlay Map prior to the time that they are designated as SSAs under the Stewardship Credit Program. Residential Uses, General Conditional Uses, Earth Mining and Processing Uses, and Recreational Uses (layers 1-4) as listed in the Matrix shall be eliminated in FSAs and lands described in Policy 3.12. Conditional use essential services and governmental essential services, except those necessary to serve permitted uses or for public safety, shall only be allowed in FSAs with a Natural Resource Stewardship Index value of 1.2 or less. Where practicable, directional-drilling techniques and/or previously cleared or disturbed areas shall be utilized for oil or gas extraction in FSAs in order to minimize impacts to native habitats. Asphaltic and concrete batch making plants shall be prohibited in areas mapped as HSAs. The opportunity to voluntarily participate in the Stewardship Credit Program, as well as the right to sell conservation easements or a free or lesser interest in the land, shall constitute compensation for the loss of these rights.

### **Policy 5.4**

Collier County will coordinate with appropriate State and Federal agencies concerning the provision of wildlife crossings at locations determined to be appropriate. A map of these crossing locations will be developed by January, 2010 and used in evaluating community and transportation planning for the RLSA.

### **Policy 5.5**

For those lands that are not voluntarily included in the Rural Lands Stewardship program, non-agricultural development, excluding individual single family residences, shall be directed away from the listed species and their habitats by complying with the following guidelines and standards:

1. A wildlife survey shall be required for all parcels when listed species are known to inhabit biological communities similar to those existing on site or where listed species are directly observed on the site. The survey shall be conducted in accordance with the requirements of the Florida Fish and Wildlife Conservation Commission (FFWCC) and U.S. Fish and Wildlife Service (USFWS) guidelines. The County shall notify the FFWCC and USFWS of the existence of any listed species that may be discovered. No local permits shall be issued until necessary state and federal permits have been obtained.
2. Wildlife habitat management plans for listed species shall be submitted for County approval. A plan shall be required for all projects where the wildlife survey indicated listed species are utilizing the site, or the site is capable of supporting wildlife and can be anticipated to be occupied by listed species. These plans shall describe how the project directs incompatible land uses away from listed species and their habitats.
  - a. Management plans shall incorporate proper techniques to protect listed species and their habitats from the negative impacts of proposed development. Open space and vegetation preservation requirements shall be used to establish buffer areas between wildlife habitat areas and areas dominated by human activities. Provisions such as fencing, walls, or other obstructions shall be provided to minimize development impacts to the wildlife and to facilitate and encourage wildlife to use wildlife corridors. Appropriate roadway crossings, underpasses and signage shall be used where roads must cross wildlife corridors.
    - i. The following references shall be used, as appropriate, to prepare the required management plans:
      1. South Florida Multi-Species Recovery Plan, USFWS, 1999.
      2. Habitat Management Guidelines for the Bald Eagle in the Southeast Region, USFWS, 1987.

3. Ecology and Habitat Protection Needs of Gopher Tortoise (*Gopherus polyphemus*) Populations found on Lands Slated for Large Scale Development in Florida, Technical Report No. 4, Florida Game and Fresh Water Fish Commission, 1987.
  4. Ecology and Development-Related Habitat Requirements of the Florida Scrub Jay (*Apelocoma coerulescens*), Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991.
  5. Ecology and Habitat Protection Needs of the Southeastern American Kestrel (*Falco Sparverius Paulus*) on Large-scale Development Sites in Florida, Nongame Technical Report No. 13, Florida Game and Fresh Water Fish Commission, 1993.
- ii. The County shall consider any other techniques recommended by the USFWS and FFWCC, subject to the provision of paragraph 3 of this policy.
  - iii. When listed species are directly observed on site or indicated by evidence, such as denning, foraging, or other indications, a minimum of 40% of native vegetation on site shall be retained, with the exception of clearing for agricultural purposes. The County shall also consider the recommendation of other agencies, subject to the provisions of paragraph 3 of this policy.
- b. For parcels containing gopher tortoises (*Gopherus polyphemus*), priority shall be given to protecting the largest most contiguous gopher tortoise habitat with the greatest number of active burrows, and for providing a connection to off site adjacent gopher tortoise preserves.
  - c. Habitat preservation for the Florida scrub jay (*Apelocoma coerulescens*) shall conform to the guidelines contained in Technical Report No. 8, Florida Game and Fresh Water Fish Commission, 1991. The required management plan shall also provide for a maintenance program and specify an appropriate fire or mechanical protocols to maintain the natural scrub community. The plan shall also outline a public awareness program to educate residents about the on-site preserve and the need to maintain the scrub vegetation. These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, subject to the provisions of paragraph (3) of this policy.
  - d. For the bald eagle (*Haliaeetus leucocephalus*), the required habitat management plans shall establish protective zones around the eagle nest restricting certain activities. The plans shall also address restricting certain types of activities during the nest season. These requirements shall be consistent with the UFWS South Florida Multi-Species Recover Plan, May 1999, subject to the provisions of paragraph (3) of this policy.
  - e. For the red-cockaded woodpecker (~~h~~*Picoides borealis*), the required habitat protection plan shall outline measures to avoid adverse impacts to active clusters and to minimize impacts to foraging habitat. Where adverse effects can not be avoided, measures shall be taken to minimize on-site disturbance and compensate or mitigate for impacts that remain. These requirements shall be consistent with the UFWS South Florida Multi-Species Recovery Plan, May 1999, subject to the provision of paragraph 3) of this policy.
  - f. In areas where the Florida black bear (*Ursus americanus floridanus*) may be present, the management plans shall require that garbage be placed in bear-proof containers, at one or more central locations. The management plan shall also identify methods to inform local residents of the concerns related to interaction between black bears and humans. Mitigation for impacting habitat suitable for black bear shall be considered in the management plan.

- g. For projects located in Priority I or Priority II Panther Habitat areas, the management plan shall discourage the destruction of undisturbed, native habitats that are preferred by the Florida panther (*Felis concolor coryi*) by directing intensive land uses to currently disturbed areas. Preferred habitats include pine flatwoods and hardwood hammocks. In turn, these areas shall be buffered from the most intense land uses of the project by using low intensity land uses (e.g., parks, passive recreational areas, golf courses). Golf courses within the Rural Lands Area shall be designed and managed using standards found within this Overlay. The management plans shall identify appropriate lighting controls for these permitted uses and shall also address the opportunity to utilize prescribed burning to maintain fire-adapted preserved vegetation communities and provide browse for white-tailed deer. These requirements shall be consistent with the USFWS South Florida Multi-Species Recover Plan, May 1999, subject to the provisions of paragraph (3) of this policy. The Multi-Species Recovery Plan (1999) shall constitute minimum wildlife protection standards for the RLSAO.
  - h. The Management Plans shall contain a monitoring program for developments greater than 10 acres.
3. The County shall, consistent with applicable policies of this Overlay, consider and utilize recommendations and letters of technical assistance from the Florida Fish and Wildlife Conservation Commission and recommendations from the US Fish and Wildlife Service in issuing development orders on property containing listed species, or listed species habitat capable of supporting wildlife, and can be anticipated to be occupied by listed species. It is recognized that these agency recommendations, on a case by case basis, may change strengthen the requirements contained within these wildlife protection policies and any such change shall be deemed consistent with the Growth Management Plan. However, no relaxation of these wildlife protection policies will be considered.

**Policy 5.6**

Any development on lands not participating in the RLSA Program will not be included in any possible Habitat Conservation Plan, Conservation Agreement or other federal equivalent under the Endangered Species Act in the RLSA, and are required to pursue appropriate permitting and mitigation through the Florida Fish and Wildlife Conservation Commission and US Fish and Wildlife Service. No county development authorization shall be issued until a USFWS ESA Section 7 or 10 authorization is issued or deemed unnecessary for the proposed development.

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[\*\* For Policy 5.76 (wetlands protections), I would like to revise the numerous references to WRAP (delete) and use UMAM as the functional evaluation standard. I also suggest adding a policy disallowing exotics removal counting at all as wetland impact mitigation (5.6.3.f. - add a new "iv".) Finally, I would like to add incentives to restore wetlands and habitat through non-RLSA tools, like Farm Bill easements, grants, tax benefit programs, etc.]



### **Policy 5.76**

For those lands that are not voluntarily included in the Rural Lands Stewardship program, Collier County shall direct non-agricultural land uses away from high functioning wetlands by limiting direct impacts within wetlands. A direct impact is hereby defined as the dredging or filling of a wetland or adversely changing the hydroperiod of a wetland. This policy shall be implemented as follows:

1. There are two (2) major wetlands systems within the RLSA, Camp Keais, Strand and the Okaloacoochee Slough. These two systems have been mapped and are designated as FSA's. Policy 5.1 prohibits certain uses within the FSA's, thus preserving and protecting the wetlands functions within those wetland systems.
2. The other significant wetlands within the RLSA are WRA's as described in Policy 3.3. These areas are protected by existing SFWMD wetlands permits for each area.
3. FSAs, HSAs and WRAs, as provided in Policy 5.3, and the ACSC have stringent site clearing and alteration limitations, nonpermeable surface limitations, and requirements addressing surface water flows which protect wetland functions within the wetlands in those areas. Other wetlands within the RLSA are isolated or seasonal wetlands. These wetlands will be protected based upon the wetland functionality assessment described below, and the final permitting requirements of the South Florida Water Management District.
  - a. The County shall apply the vegetation retention, open space and site preservation requirements specified within this Overlay to preserve an appropriate amount of native vegetation on site. Wetlands shall be preserved as part of this vegetation requirement according to the following criteria:
    - i. The acreage requirements specified within this Overlay shall be met by preserving wetlands with the highest wetland functionality scores. Wetland functionality assessment scores shall be those described in paragraph b of this policy. The vegetative preservation requirements imposed by Policies 5.3 and 5.5 shall first be met through preservation of wetlands having a functionality assessment score of 0.65 or a Uniform Wetland Mitigation Assessment Method score of 0.7, or greater. Within one year from the effective date of this Amendment, the County shall develop specific criteria in the LDC to be used to determine those instances in which wetlands with a WRAP functionality assessment score of 0.65 or a Uniform Wetland Mitigation Assessment Method score of 0.7, or greater must be preserved in excess of the preservation required by Policy 5.3.
    - ii. Wetlands utilized by listed species or serving as corridors for the movement of listed species shall be preserved on site. Wetland flowway functions through the project shall be maintained.
    - iii. Proposed development shall demonstrate that ground water table drawdowns or diversions will not adversely change the hydroperiod of preserved wetlands on or offsite. Detention and control elevations shall be set to protect surrounding wetlands and be consistent with surrounding land and project control elevations and water tables. In order to meet these requirements, projects shall be designed in accordance with Sections 4.2.2.4.6.11 and 6.12 of SFWMD's Basis of Review, January 2001. Upland vegetative communities may be utilized to meet the vegetative, open space and site preservation requirements of this Overlay when the wetland functional assessment score is less than 0.65.
  - b. In order to assess the values and functions of wetlands at the time of project review, applicants shall rate functionality of wetlands using the South Florida Water

Management District's Wetland Rapid Assessment Procedure (WRAP), as described in Technical Publication Reg-001, dated September 1997, and updated August 1999, or the Uniform Wetland Mitigation Assessment Method, identified as F.A.C. Chapter 62-345. The applicant shall submit to County staff agency-accepted WRAP scores, or Uniform Wetlands Mitigation Assessment scores. County staff shall review this functionality assessment as part of the County's EIS provisions and shall use the results to direct incompatible land uses away from the highest functioning wetlands according to the requirements found in paragraph 3 above.

- c. All direct impacts shall be mitigated for pursuant to the requirements of paragraph (f) of this policy.
- d. Single family residences shall follow the requirements contained within Policy 6.2.7 of the Conservation and Coastal Management Element.
- e. The County shall separate preserved wetlands from other land uses with appropriate buffering requirements. The County shall require a minimum 50-foot vegetated upland buffer abutting a natural water body, and for other wetlands a minimum 25-foot vegetated upland buffer abutting the wetland. A structural buffer may be used in conjunction with a vegetative buffer that would reduce the vegetative buffer width by 50%. A structural buffer shall be required abutting wetlands where direct impacts are allowed ed. Wetland buffers shall conform to the following standards:
  - i. The buffer shall be measured landward from the approved jurisdictional line.
  - ii. The buffer zone shall consist of preserved native vegetation. Where native vegetation does not exist, native vegetation compatible with the existing soils and expected hydrologic conditions shall be planted.
  - iii. The buffer shall be maintained free of Category I invasive exotic plants, as defined by the Florida Exotic Pest Plant Council.
  - iv. The following land uses are considered to be compatible with wetland functions and are allowed within the buffer:
    - (1) Passive recreational areas, boardwalks and recreational shelters;
    - (2) Pervious nature trails;
    - (3) Water management structures;
    - (4) Mitigation areas;
    - (5) Any other conservation and related open space activity or use which is comparable in nature with the foregoing uses.
  - v. A structural buffer may consist of a stem-wall, berm, or vegetative hedge with suitable fencing.
- f. Mitigation shall be required for direct impacts to wetland in order to result in no net loss of wetland functions.

Mitigation Requirements:

  - i. "No net loss of wetland functions" shall mean that the wetland functional score of the proposed mitigation equals or exceeds the wetland functional score of the impacted wetlands. Priority shall be given to mitigation within FSA's and HSA's.
  - ii. Loss of storage or conveyance volume resulting from direct impacts to wetlands shall be compensated for by providing an equal amount of storage or conveyance capacity on site and within or abutting the impacted wetland.
  - iii. Protection shall be provided for preserved or created wetland or upland vegetative communities offered as mitigation by placing a conservation easement over the land in perpetuity, providing for initial exotic plant removal (Class I invasive exotic plants defined by the Florida Exotic Plan Council) and continuing exotic plant maintenance, or by appropriate ownership transfer to a state or federal agency along with sufficient funding for perpetual management activities.

iv. Under no circumstances will exotics removal or maintenance be considered acceptable mitigation for the loss of wetlands or listed species habitat.

iv. Prior to issuance of any final development order that authorizes site alteration, the applicant shall demonstrate compliance with paragraphs (f) i, ii, and iii of this policy. If agency permits have not provided mitigation consistent with this policy, Collier County will require mitigation exceeding that of the jurisdictional agencies.

- g. Wetland preservation, buffer areas, and mitigation areas shall be identified or platted as separate tracts. In the case of a Planned Unit Development (PUD), these areas shall also be depicted on the PUD Master Plan. These areas shall be maintained free from trash and debris and from Category I invasive exotic plants, as defined by the Florida Exotic Pest Plant Council. Land uses allowed in these areas shall be limited to those listed above (3.e.iv.) and shall not include any other activities that are detrimental to drainage, flood, control, water conservation, erosion control or fish and wildlife habitat conservation and preservation.

4. All landowners shall be encouraged to consider participating in any programs that provide incentives, funding or other assistance in facilitating wetland and habitat restoration on private lands, including but not limited to federal farm bill agricultural conservation programs, private or public grants, tax incentives, easements, and fee or less than fee sale to conservation programs.

#### **Policy 5.8**

Any development on lands not participating in the RLS program shall be required to assure compatibility with surrounding land uses. Outdoor lighting shall be reasonably managed to protect the nighttime environment, conserve energy, and enhance safety and security. Other compatibility elements to be addressed include, but are not limited to appropriate buffers, smoke easements, and agricultural neighbor agreements.

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