



STATE OF FLORIDA

DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

May 8, 2008

Mr. James V. Mudd
Collier County Manager
3301 East Tamiami Trail
Naples, Florida 34112

Re: *Rural Lands Stewardship Area Program 2007 Annual Report to the Legislature*

Dear Mr. Mudd:

Thank you for your letter of March 24, 2008, and your comments on the above-referenced report by the Department of Community Affairs to the Legislature.

Collier County is justifiably proud of its rural lands program, but I think you are being much too sensitive to criticisms of the program. Your letter concludes that "[T]he DCA assessment displays a negative bias" toward the Collier County rural lands program. With all due respect, I do not believe that any objective reader of the DCA report would reach such a conclusion. Your letter ignores significant parts of the report which refute your allegation of Departmental bias against the Collier program.

First, the report not only commended the Collier program but noted that it is a groundbreaking rural planning experience. In commenting on the Collier program and the St. Lucie County RLSA, the report states that it is

"not intended to disparage these two programs. On the contrary, it is recognized that these are pioneering programs which have broken new ground in rural planning. We can learn from these experiences."

(Report, at 2). Further, I would note that the Department has paid perhaps the highest of all compliments to the Collier program by incorporating some of its commendable features into DCA's draft RLSA rule.

2555 SHUMARD OAK BOULEVARD TALLAHASSEE, FL 32399-2100
Phone: 850-488-8466 Fax: 850-921-0781 Website: www.dca.state.fl.us

COMMUNITY PLANNING
Phone: 850-488-2356 Fax: 850-488-3309

AREAS OF CRITICAL STATE CONCERN FIELD OFFICE
Phone: 305-289-2402 Fax: 305-289-2442

HOUSING AND COMMUNITY DEVELOPMENT
Phone: 850-488-7956 Fax: 850-922-5623

498

Mr. James V. Mudd
May 8, 2008
Page 2

Second, your letter ignores the context in which the Department evaluated the Collier program. The Department's report was not intended to and does not evaluate the Collier program for compliance with the State of Florida Administration Commission's June 22, 1999, Final Order, or with state law as it existed at the time the Collier program was initiated. Rather, as the report clearly states, its purpose was to evaluate whether the Collier model as a whole complies with the RLSA statute which was established in 2001:

"The [Collier] program was commenced prior to the enactment of the RLSA statute, was not subject to the requirements of the statute, and was not reviewed by the Department for consistency with the RLSA statute. Nevertheless, because some people advocate the Collier program as a model for RLSA implementation, the Department has evaluated this program." (Report, at 5).

Although your letter twice mentions that the DCA found the Collier County plan to be in compliance, it fails to acknowledge that DCA did not review it for compliance with the RLSA statute. Further, the well-deserved commendations received by the Collier program from various other organizations were not based on an evaluation of the program's compliance with RLSA statutory requirements.

There are numerous significant differences between the Collier program and the RLSA statute. As a part of its technical assistance responsibilities pursuant to section 163.3177(11), Florida Statutes, DCA has an obligation to point out those differences to people who are interested in utilizing the statutory RLSA process. For this reason, DCA's report understandably concentrated on aspects of the Collier program which may be problematic under the statute.

In your letter, you seem to question the Department's characterization of the Collier system as "extremely complex," but you failed to refute that description. In fact, numerous people outside of DCA have told me they consider the Collier methodology to be "Byzantine," "incomprehensible," "voodoo planning," "there is no there there," and "lacking in transparency." Having devoted a significant amount of my time in trying to understand the Collier methodology, I can appreciate why people view the methodology in such an unfavorable light. Fortunately, the RLSA statute does not incorporate the Collier methodology for determining and utilizing stewardship credits.

Despite your assertion that "many of the findings cited in the [DCA] report simply are not based on fact," you give only a very few examples. Moreover, review of these examples indicates that you have either misunderstood or mischaracterized our report. A detailed response to your alleged factual errors is enclosed.

Mr. James V. Mudd
May 8, 2008
Page 3

In conclusion, I believe that DCA's report is a fair and objective commentary on the Collier County rural lands program in the context of RLSA statutory requirements and that it accurately sets forth pertinent facts about the program. We have received compliments on the report from numerous people, including persons involved in the implementation of the Collier program who agree with the Department's conclusions.

Although the Collier program is a commendable effort to improve rural planning, it certainly can be improved. I understand that the County is involved in a detailed evaluation of the program, and I hope that it will be an open and objective evaluation which is not driven by affected landowners and their consultants. The Department will be following the County's evaluation very closely. Please let me know if the Department can be of any assistance to the County in this important endeavor.

Sincerely yours,



Thomas G. Pelham
Secretary

TGP/rd

Enclosure

cc: Members of Board of Collier County Commissioners

**Response To Alleged Factual Errors In The Department's Annual Report
As Stated In Your Letter Dated March 24, 2008**

The first paragraph under #1 in your letter states:

"First, it must be understood that, as virtually 100% of potential receiving areas are currently in agricultural use, any conversion will be at the expense of agricultural land. However, stewardship credit generation quite often results in permanent preservation of agricultural uses in other areas."

It is fully understood that some agricultural lands will convert to urban uses. The Department's concern is much broader and includes:

- That such a large expanse of agricultural land is eligible to become a receiving area.
- The high number of credits allowed by the RLSA program that will permit the conversion of large amounts of these agricultural lands.
- Agricultural areas have little incentive to become sending areas.
 - o The fact that some agricultural lands have become sending areas is probably more the result of ownership patterns and proximity to habitat areas instead of a concerted effort to protect such lands in agriculture.

The paragraph goes on to state:

"In fact, Collier County has now preserved in perpetuity nearly 25,000 acres of agricultural land, including 5,260 acres for citrus and row crops and 19,034 acres for cattle, in just the first five years of the program."

The Annual Report includes the following tables:

Table 2: Sending Area Attributes:

Land Type	Acres
Flowway Stewardship Area	8,876.7
Habitat Stewardship Area	12,860.8
Water Retention Area	43.5
Open Area	2,591.8
Total SSA Lands	24,372.8

Table 3: Sending Area Land Uses:

Land Use Layer Remaining	Acres
Agriculture 1	5,288.6
Agriculture 2	18,382.5
Conservation	651.3
Mining	50.1

The nearly 25,000 acres in the approved sending areas included several different types of land use features. Almost 9,000 acres were classified as Flowway Stewardship Areas. Flowway Stewardship Areas are described by Collier County in Policy 3.1: "*FSA's are primarily privately owned wetlands that are located within the Camp Keais Strand and Okaloacoochee Slough. These lands form the primary wetland flowway systems in the RLSA.*" Additionally, lands classified as Flowway Stewardship Areas are assigned one of the highest natural resource index values. It seems very clear that these Flowway Stewardship Areas contain very important environmental attributes and although cattle may use these areas it seems clear that these are natural wetlands. It also appears that portions of these areas are targeted for restoration. The protection of these areas is frequently cited as an important achievement of the Collier County RLSA program. The Department also commends the county for protecting these natural resource lands.

However, an examination of Table 3 shows that only 651 acres of the total sending areas were protected for conservation. Therefore, the vast majority of these important natural resource areas continue to allow agriculture of some type or another. This is consistent with your letter and the Annual Report provides this information. Your letter indicates that 19,034 acres are preserved for cattle and the Annual Report gives a figure of 18,382 acres for the lower intensity Agricultural 2 category which includes cattle. The number was the best number available at the time the Annual Report was published. In fact, it appears that there may be an error in your final technical report published on February 13, 2008. Table 1-D shows inconsistent totals. It appears that the 651 acres for conservation was double counted for agriculture, although we do not have the primary data available to confirm that error. However, this would account for the difference between the Annual Report and the County's final technical report, published six weeks later.

Your letter states that 5,260 acres in citrus and row crops have been preserved. This is more or less consistent with the higher Annual Report number of 5,288.6 acres allowed to continue in the more intensive Agriculture 1 category. However, the Department did not have the detailed information regarding number of acres in specific agricultural uses such as citrus and row crops.

Table 2 in the Annual Report indicates that the sending areas include only 2,591.8 acres in the Open Area where these more intense agriculture uses are likely to be. Apparently, the additional citrus and row crop acres you mention are located in Habitat Stewardship Areas.

The Habitat Stewardship Areas are defined by Policy 3.2: "*HSAs are privately owned agricultural areas, which include both areas with natural characteristics that make them suitable habitat for listed species and areas without these characteristics. These latter areas are included because they are located contiguous to habitat to help form a continuum of landscape that can augment habitat values.*" It would appear that the county has determined that citrus and row crops that are contiguous to natural habitat areas may be classified as Habitat Stewardship Areas. The Department's initial understanding was that the compatible and complementary agricultural areas classified as Habitat Stewardship Areas would likely be of a low intensity nature.

The second paragraph under #1 in your letter states:

"The Report claims "over 6,000" acres having been converted from agricultural uses to non-agricultural uses, however the County's Technical Report has found the total number of agricultural acres converted between 2002 and 2007 as a result of RLS to be 5,058, principally for the Town of Ave Maria and Ave Maria University."

This misrepresents the Annual Report.

First, the Annual Report stated that "3,357 acres of row crops, 583 acres of improved pasture, 327 acres of sod farms, and 133 acres of fallow crop land" were being converted to urban uses on the Ave Maria site. This totals to 4,400 acres. Second, the Annual Report stated that the pre-application materials for the proposed Big Cypress Development of Regional Impact reported that, "Current land cover includes 1,908 acres of row crops, 317 acres of other cropland and pasture, 293 acres of improved pasture, 79 acres of fallow cropland, and other various agricultural uses." This totals to 2,597 acres. Thus, the Ave Maria and Big Cypress developments are expected to convert 6,997 acres from agricultural to urban uses. Finally, the Annual Report states, "Over 6,000 acres of the more intensely farmed agricultural lands are being planned for conversion to urban uses in the approved Ave Maria and proposed Big Cypress new towns alone." This statement is clearly a conservative underestimate of the planned conversion of agricultural lands. We believe that the Annual Report is a fair representation of the facts available to the Department at the time of publication.

The fourth paragraph under #1 in your letter states:

"The population estimate included in the report may be overstated, as it is based on "preliminary findings" of the Collier County planning staff that are not achievable."

The Annual Report clearly stated that the source document was a "preliminary report." Nevertheless, these preliminary findings that projected a RLSA population 389,193 appear to represent the only RLSA population analysis done by the county since the adoption of the RLSA. It is interesting to note that this report was prepared in 2005 and although it was labeled as preliminary, to the best of the Department's knowledge, it has never been updated or replaced. Also, the Collier County planning staff recommended that we review the report when we (Robert Pennock) met with them in August, 2007 in Naples.

It is entirely appropriate for the Department's Annual Report to provide the results of this county produced report. It was also appropriate for the Department to analyze the report and in doing so we concluded in the Annual Report that, "A more conservative estimate would be 200,000 persons." In other words, we agree that the population estimates may be overstated, although we would not go so far as to say that they are not achievable.

More importantly, the Annual Report stated, "It is questionable whether this very large amount of development is consistent with rural sustainability including maintaining the viability of agriculture." We stand by that concern.

The second paragraph under #2 in your letter states:

"The DCA report cites as a failure the fact that some three-quarters of sending areas are located in the Big Cypress Swamp Area of Critical State Concern."

On page 9, under the Current Status section, the Annual Report describes the characteristics of the nine approved sending areas. The Report states, "Also of note is that 18,116,7 acres (74%) of the designated sending areas are within the Big Cypress Swamp Area of Critical State Concern, which already has provided additional protections to these lands."

Clearly, the Department is not suggesting that this indicates a failure of the program, by itself. However, this fact, in combination with other features of the program does raise several concerns of the Department that are described in the Annual Report.

The third paragraph under #2 in your letter states:

"The report also concludes that the 93,000-acre eligible for the designation as receiving areas "is the exact opposite of the plan to direct growth to the most suitable areas," apparently because of its magnitude."

Once again, it is important to provide full, correct quote from the Annual Report. The Annual Report states,

"The ultimate total amount and geographic extent or footprint of development in the RLSA cannot be determined and there are practically no standards guiding the distribution of development areas. The large 93,000 acre area eligible for designation of receiving areas, which also allows the conversion of land uses to the underlying low-density uses, is the exact opposite of a plan to direct growth to the most suitable areas. This may lead to fragmentation of natural areas, wildlife habitat, and agricultural areas. The overall rural character of the area is under threat from the potentially large amount of urban development."

Allowing the undirected conversion of productive agricultural lands is inconsistent with the principles of rural sustainability.