

**COMMENTS BY THE ENVIRONMENTAL ADVISORY COUNCIL (EAC) OF  
COLLIER COUNTY  
RELATED TO THEIR REVIEW OF THE  
JANUARY, 2009 REPORT OF THE RLSA ADVISORY COMMITTEE REPORT ENTITLED  
“FIVE YEAR REVIEW OF THE RURAL LANDS STEWARDSHIP PROGRAM”**

**DRAFT ONLY BY JUDITH HUSHON, Ph.D., EAC VICE CHAIR, 3-4-09**

The Rural Lands Stewardship Program Review Committee has done a fine job of addressing many areas where the program can be improved. It is evident from their work that the issue of how to properly use the credits generated by sending areas while preserving the rural and natural features of the remaining lands has been considered; however, we do not believe that an adequate answer to this problem has been arrived at yet. The EAC at their February 27, 2009 meeting was not able to reach a consensus on the best way to control growth in the RLSA. The general opinion was that there is no need to move so quickly that we cannot wait the results of several ongoing studies that would greatly improve the ability to make decisions, including the ECPO panther study, the USFWS Habitat Conservation Plan, the Future Transportation Plan, and the Build-out Vision Plan. These are the comments we have been able to agree on to as of March 2009.

## **1. Preservation of Agricultural Lands:**

- (1) **General comment:** Based upon data presented, the revised program will result in a 56.5% reduction of cultivated farm lands within RLSA. This is contradictory to the stated purpose of the program.<sup>1</sup>
- (2) **Policy 2.2 Inclusion of agricultural credits:** The EAC agrees with the inclusion of agricultural credits. It is stated that the purpose of this plan is to preserve agriculture. The County should preserve its agricultural capacity in any way possible.
- (3) **Policies 2.3 and 2.4** The EAC voted to retain the sections calling for formation of an Agricultural Advisory Council.

## **2. Program Caps:**

The EAC discussed whether acres or credits should be capped and could not reach a consensus. What they did want to convey were the following concerns:

- (1) There are too many credits floating around in the revised Overlay – this could devalue existing credits.<sup>2</sup>

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<sup>1</sup> According to the RLSA Phase I Technical Review, in 2007, there were 64,469 acres under cultivation consisting of citrus, row crops and specialty (See RLSA Phase I Technical Review Table 4-A (p.11)). In a Johnson Engineering report dated February 15, 2008 to Mr. Tom Jones of the Barron Collier Companies (and a member of the RLSA Review Committee), the introductory paragraph makes the following statement: “...using assumptions provided by the Barron Collier Companies...(there will be) approximately 28,000 acres of agricultural land under cultivation (at build out).” This represents a loss of 36,469 acres or 56.5% of presently cultivated acreage.

<sup>2</sup> Six years ago the Rural Land Stewardship Area (RLSA) Review Committee told the Collier County Commissioners (CCBC) and the Florida Department of Community Affairs (DCA) that the GMP Amendments proposed for the RLSA would result in a potential development of 9-10 percent of the encompassed land area or about 16,800 acres, plus additional acreage required for services. Since that time, largely due to the addition of restoration credits and the way they were valued, the estimated number of credits has risen to 315,000 and developable acreage, based on those credits, has grown to 43,312 acres. (Wilson Miller, Inc., Collier County Rural Land Stewardship Five Year Review Supporting documentation, pp 74-76.) Now, six years later we are being asked to consider a proposal that allows for potentially far more than 315,000 credits.

- (2) There is a potential to generate more credits than would be used to entitle 45,000 acres of development.<sup>3</sup>
- (3) There was a general consensus that to avoid an overload of development credits, changes to the GMP and LDC should be explored that would allow use of credits generated in the RLSA to be used in other unincorporated areas of the County.

### 3. Direction of Development Away from Primary Panther Habitat

**Policy 3.11** It is the obligation of the County to protect primary panther habitat and to direct development away from this area.<sup>4</sup> We are currently lacking the Panther Technical Review Team and the USFWS Habitat Conservation Plan for the RLSA that are directly applicable to this decision. Without these studies in hand, it seems prudent to direct development away from these areas. The following are areas where the EAC was able to reach consensus and make recommendations:

- (1) The panther corridors as shown on the Wilson Miller Transportation map do not appear to meet the currently recommended guidelines.<sup>5</sup>
- (2) The more appropriately sized pathways will generate far more than the 2300 credits mentioned in the Wilson Miller supporting documentation, therefore meaning many more panther corridor credits will be generated.
- (3) The Environmental Advisory Council recommends that lands within a Panther Corridor as designated by the United States Fish and Wildlife Service be awarded 2 bonus credits when they are placed in a Stewardship Sending Area (SSA) and an additional 8 bonus credits once all lands within the Corridor have been restored and placed in SSA's.

### 4. Golf Courses Should be Excluded from HSAs

**Policies 3.7 and 4.13:** Golf courses should not be considered passive recreation areas and should not be allowed in HSAs.

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<sup>3</sup> Additional credits are envisioned through the introduction of agricultural credits (Policy 2.2), increased restoration credits (Policy 3.11(1)), and most importantly panther corridor credits (Policy 3.11(2)). If insufficient credits are generated under the system, the 45,000 acre cap could be regarded as a commitment binding Collier County to allow development up to that level. There is the possibility that a landowner **not** part of the RLSA credit system could come to the county with an SRA application and, if denied, would then make a claim that the proposed SRA falls within the 45,000 acre entitlement.

<sup>4</sup> There has been much debate about Florida panther habitat. The Florida panther Recovery Plan of the U. S. Fish and Wildlife Service (3<sup>rd</sup> revision) states: "The Primary Zone supports the only breeding panther population. To prevent further loss of population viability, habitat conservation efforts should focus on maintaining the total available area, quality, quality and spatial extent of habitat within the Primary Zone. The continued loss of habitat functionality through fragmentation and loss of spatial extent poses serious threats to the conservation and recovery of the panther. Therefore, conserving lands within the Primary Zone and securing biological corridors are necessary to help alleviate these threats." (p. 89). The only current scientifically peer-reviewed designation of habitat is Randy Kautz, et al: *How much is enough? Landscape-scale conservation for the Florida panther*. Biological Conservation 130 (2006), pp. 118-133.

<sup>5</sup> The current Florida Panther Recovery Plan recommends a panther corridor of a minimum 1 mile in width for a pathway of this proposed length (USFWS, Florida Panther Recovery Plan, 3<sup>rd</sup> revision, p. 30, 2008.) As to the *location* of the pathways, Florida Fish and Wildlife Commission's Technical Report, authored by Kathleen Swanson, Darrel Land, Randy Kautz and Robert Kawula in 2008 in Figure 12 (p. 14) and Appendix 4a (p. 42) clearly map out the least cost pathways for the northern and the OK Slough pathways. These do not correspond to the pathways shown on the attachments to the RLSA Review Committee's report.

- (1) Throughout the RLSA report, golf courses are considered “low intensity land uses” and are lumped in with “parks and passive recreation areas,” yet in Attachments B and C are listed as “active recreation areas.” This appears to be contradictory.

## 5. Transportation Infrastructure to Serve Future SRAs:

Not enough attention has been paid to the secondary impacts (roads, other infrastructure) required to support this expanded development footprint. The Build-out Vision Plan and the Transportation Plan are essential elements to this RLSA Process and will not be available for at least a year.

## 6. Water for Future SRAs:

- (1) **Comment on Policies 4.2, 5.1, 5.2, 5.3:** The RLSA has not focused enough effort on determining future water quality and availability. The EAC has concerns that the potential exists for adverse effects on water quality and availability for current users and that there will be a significant increase in County expense to provide potable water in the future.<sup>6</sup>
- (2) **Comment on Policies 3.13 and 4.8:** The use of preserves and preserve-type areas for storm water treatment has been a concern of the Environmental Advisory Council for years. This policy explicitly allows that practice but does not always count the affected acreage against the SRA entitlement.

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<sup>6</sup> South Florida Water Management District (SFWMD) Executive Director Carol Wehle, at an Everglades Conference in January 2009 said this: *counties and municipalities are overly dependent on the SFWMD to preserve and protect their water supplies. You must be more proactive in creating explicit elements within your comprehensive and growth management plans. We can only use what you give us to make decisions. You must take control of your own futures.* In repeated and duplicative comments, counsel for the Eastern Collier Property Owners (ECPO) defers to SFWMD permitting. This is not an adequate response, given Ms. Wehle’s comments above. The revisions to the RLSA program need to proactively protect the water supplies for our citizens. ECPO counsel repeatedly makes the following statement: “In most cases, the conversion of land from agriculture to SRA uses reduces the consumption of groundwater by a significant percentage.” This assertion cannot go unexamined: water consumption estimates are based upon a Johnson Engineering study dated which uses the Town of Ave Maria as the data base. The study estimates 110 gallon per capita usage. The United States Geological Survey (USGS), in a study entitled “*Public supplied population, water use, withdrawals, and transfers in Florida by county 2005,*” indicates water consumption in Collier County was 246 gallons per capita. This serious contradiction needs to be resolved. Underlying assumptions in the Johnson study need to be revealed and tested, primarily the question of whether, in the case of the Ave Maria water system, are we dealing with projected usage or actual usage? In discussion at the February 10, 2009 Environmental Advisory Council (EAC) meeting, Mr. Jones stated that drinking water was “not a problem” in the RLSA. It is available by withdrawal from the Lower Hawthorn aquifer. However, in a January 16, 2009 review of the Development of Regional Impact proposal (DRI) for Town of Big Cypress (within the RLSA), the SFWMD made this comment: “...the response did not address the potential impacts to the water resource availability of the Lower Hawthorn aquifer. District staff is aware that this aquifer is under increased use.” The report continues: “...chloride levels in public wellfields in this aquifer have increased more substantially than anticipated. These increases could degrade the resource and may require modifications to reverse osmosis treatment plants to handle increased salinity .Please provide additional information to demonstrate withdrawals from the Lower Hawthorn aquifer for the Town of Big Cypress will have no impact upon other users (underlining mine).” The RLSA Review Committee has not adequately addressed this issue to the fullest extent. The Johnson Engineering study asserts: “(t)here are few competing users of the Floridian aquifer in eastern Collier County since traditional supplies are abundant and meet existing demands.” (p. 5) The Floridian aquifer is geologically below the Lower Hawthorn and separated by a confining layer (although some sources regard the Lower Hawthorn as the uppermost layer of the Floridan). Why then, is the SFWMD concerned that “...chloride levels ...have increased more substantially than anticipated” when reviewing Big Cypress? Aren’t we looking at an enormous public works project, at taxpayers’ expense, if the Lower Hawthorn is compromised? Or is there consideration of attempting to withdraw from below the Intermediate aquifer system (of which the Lower Hawthorn is a part)? None of this is covered in the RLSA proposals.

- (a) A primary objective of the revised RLSA Overlay should be to **avoid** the use of WRAs as part of storm water management systems for SRAs. This should be clearly stated in the document.
- (b) If absolutely no other option is available for storm water treatment of an SRA, WRAs designated to receive storm water need to be carefully evaluated for their functionality as part of both flow ways and aquifer recharge. If any part of a WRA is incorporated into the storm water management system of an SRA, it should be counted against the acreage entitlement of the SRA.
- (c) The conversion of water storage locations from agricultural uses to development should be counted against SRA entitlement. There is no provision to analyze the effects of such conversion on water quality.

## 7. CRDs and Development in the ACSC

*Policy 4.7.3* Hamlets should be eliminated as non-viable.

*Policy 4.7.2.* Development should be directed away from the ACSC. CRDs should be the only type of SRA considered there and the number of CRDs should be limited to five. Guidance should be included regarding how closely they can be located to one another.

## 8. Other Comments

*Policy 1.6.1* The EAC is in favor of allowing landowners to retract SSA designations within 5 years. However, the detail in this policy retiring SSAs should be included in the LDC, not the GMP. If there are changes required in the future, they will be harder to make.

*Policy 3.9* The references to aquaculture are inconsistent. It was eliminated in Attachment B and should probably be removed here.

*Policy 5.5* Throughout this policy, it should read “listed and protected species” and a definition should be added.

*Policy 5.7* There needs to be a more effective reference to lighting standards compatible with rural development in this policy as well as in Group 4 policies on SRAs. The LDC will need to define appropriate luminosity as well as down-shielding guidance.

*General comment:* SSA and SRA approvals should go through the normal recommendation process of EAC and CCPC review, before final BCC approval.

*General comment:* The EAC would like to see some focus on encouraging “green construction” concepts and LEED certified buildings in the RLSA’s SRAs.

After years of effort, the latest RLSA concept plan has it “almost right”. Take the time now to reach consensus through consideration of all stakeholders (including those who speak for the children who will inherit this system in the future) so that those environmental elements so valued in the past, and which contributed greatly to the desirability of this region, shall not be relegated to a history book! This can be done with fair return to the investors in these lands as well as for the many who rely upon the proper husbanding of these lands in benefit to future generations.

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