

ORDINANCE NO. 99 - 77

NOV 1999
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AN ORDINANCE AMENDING ORDINANCE NUMBER 91-102, AS AMENDED, THE COLLIER COUNTY LAND DEVELOPMENT CODE, WHICH INCLUDES THE COMPREHENSIVE ZONING REGULATIONS FOR THE UNINCORPORATED AREA OF COLLIER COUNTY, FLORIDA, BY PROVIDING FOR: SECTION ONE, RECITALS; SECTION TWO, FINDINGS OF FACT; SECTION THREE, ADOPTION OF AMENDMENTS TO THE LAND DEVELOPMENT CODE, AS DIRECTED BY THE ADMINISTRATION COMMISSION PURSUANT TO ITS FINAL ORDER OF JUNE 22, 1999 IN CASE NO. ACC 99-02 (DOAH CASE NO. 98-0324 GM) MORE SPECIFICALLY AMENDING THE FOLLOWING: ARTICLE 2, ZONING, DIVISION 2.2 ZONING DISTRICTS, PERMITTED USES, CONDITIONAL USES, DIMENSIONAL STANDARDS TO ADD SECTION 2.2.30 DECLARATION OF PARTIAL MORATORIUM ON THE ISSUANCE OF DEVELOPMENT ORDERS FOR CERTAIN PERMITTED AND CONDITIONAL USES PERMITTED BY THE FUTURE LAND USE ELEMENT AS IT EXISTED AND WAS IN EFFECT ON JUNE 22, 1999 AND AS SET FORTH IN SECTION 2.2.2 OF THE LAND DEVELOPMENT CODE AS IT EXISTED AND WAS IN EFFECT ON JUNE 22, 1999, FOR A MAXIMUM THREE (3) YEAR PERIOD IN THE RURAL AND AGRICULTURAL ASSESSMENT AREA, EXEMPTIONS THEREFROM AND RELATED MAP AND SECTION 2.2.31, DECLARATION OF PARTIAL MORATORIUM ON THE ISSUANCE OF DEVELOPMENT ORDERS FOR ANY LAND USES EXCEPT FOR AGRICULTURE AND DIRECTLY RELATED USES AND ONE SINGLE FAMILY DWELLING UNIT PER PARCEL OR LOT CREATED PRIOR TO JUNE 22, 1999 IN THE NATURAL RESOURCE PROTECTION AREAS (NRPAS), FOR A MAXIMUM THREE (3) YEAR PERIOD, EXEMPTIONS THEREFROM AND RELATED MAP; SECTION FOUR, CONFLICT AND SEVERABILITY; SECTION FIVE, INCLUSION IN THE LAND DEVELOPMENT CODE; AND SECTION SIX, EFFECTIVE DATE.

WHEREAS, on October 30, 1991, the Collier County Board of County Commissioners adopted Ordinance No. 91-102, the Collier County Land Development Code, which has been subsequently amended; and

WHEREAS, the LDC may not be amended more than two times in each calendar year unless the Board of County Commissioners finds and declares an LDC related emergency pursuant to Section 1.19.1 of the LDC; and

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COLLIER COUNTY
FLORIDA

WHEREAS, on September 14, 1999, the Board of County Commissioners found and declared an LDC related emergency by unanimous vote; and

WHEREAS, this is an emergency amendment to the LDC; and

WHEREAS, the Board of County Commissioners, in a manner prescribed by law, did hold advertised public hearings on October 20, 1999 and November 3, 1999 and did take action concerning these amendments to the LDC; and

WHEREAS, all applicable substantive and procedural requirements of the law have been met.

SECTION ONE: RECITALS

The foregoing recitals are true and correct and incorporated by reference herein as if fully set forth.

SECTION TWO: FINDINGS OF FACT

1. Collier County, pursuant to Section 163.3161 *et seq.*, *Florida Statutes*, the Florida Local Government Comprehensive Planning and Land Development Regulation Act (hereinafter "the Act") is required to prepare and adopt a comprehensive plan.
2. Section 163.3201, *Florida Statutes*, provides that it is the intent of the Act that the adoption and enforcement by Collier County of land development regulations for the total unincorporated area shall be based on, be related to, and be a means of implementation of the adopted comprehensive plan as required by the Act.
3. Section 163.3194(1)(G), *Florida Statutes*, requires that all land development regulations enacted or amended by Collier County shall be consistent with the adopted comprehensive plan, or element or portion thereof.
4. On January 10, 1989, Collier County adopted the Collier County Growth Management Plan or "GMP" as its comprehensive plan pursuant to the requirements of Section 163.3161 *et seq.*, *Florida Statutes* and Rule 9J-5 of the *Florida Administrative Code*.
5. Pursuant to Section 163.3191, *Florida Statutes*, local governments are required to prepare and adopt the first periodic Evaluation and Appraisal Report (hereinafter "EAR") within seven years of the adoption of their respective comprehensive plans.
6. Pursuant to Section 163.3191(4), *Florida Statutes*, local governments must adopt EAR-based amendments to their respective comprehensive plans within one year of adoption of the EAR.
7. On April 6, 1996 Collier County adopted its EAR which was found sufficient by the Southwest Florida Regional Planning Council pursuant to a Delegation of Authority Agreement with the Department of Community Affairs (hereinafter "DCA").
8. On October 27, 1997, Collier County adopted the EAR-based amendments to its GMP which amendments were sent to the DCA for its review to determine compliance with the Act and Rule 9J-5.
9. On December 24, 1997, DCA issued its Notice of Intent finding certain of the EAR-based amendments not in compliance.

10. The EAR-based amendments found not in compliance are: the Future Land Use Element including the Future Land Use Map; the Drainage and Natural Groundwater Aquifer Recharge Subelements of the Public Facilities Element; the Intergovernmental Coordination Element; the Conservation and Coastal Management Element; the Housing Element; and the Golden Gate Area Master Plan Element.
11. Pursuant to Section 163.3184(10), *Florida Statutes*, the DCA petitioned the Division of Administrative Hearings for an administrative hearing to determine whether or not the referenced EAR-based amendments were in compliance with the Act and Rule 9J-5.
12. An administrative hearing was held in Collier County from May 4 through May 8, 1998 before an administrative law judge.
13. On March 19, 1999, the administrative law judge issued a recommended order finding that all of the referenced EAR-based amendments found not in compliance by the DCA were not in compliance.
14. In May of 1999, the case was transmitted to the Governor and Cabinet sitting as the Administration Commission pursuant to Section 163.3184(11), *Florida Statutes*.
15. On June 22, 1999, the Administration Commission, pursuant to Section 163.3184(11), *Florida Statutes*, issued its Final Order finding the referenced EAR-based amendments not in compliance and prescribing remedial actions necessary to bring those amendments into compliance.
16. Paragraph II of the Final Order requires Collier County to perform an assessment of the Agriculture/Rural Areas beyond the Urban Designated Area and South Golden Gate Estates illustrated on the Future Land Use Map of the GMP.
17. Included in the Agriculture/Rural Assessment Area are the Big Cypress Area of Critical State Concern, areas designated Conservation on the Future Land Use Map areas designated Agriculture/Rural on the Future Land Use Map and South Golden Gate Estates.
18. This Assessment is to be conducted and completed within a maximum of three years from the date of the Final Order, or June 22, 2002.
19. The Assessment may be conducted in phases and any given phase may be completed at an earlier point in time than the three-year timeframe.

20. Paragraph II of the Final Order also requires Collier County to determine and map the general location for Natural Resource Protection Areas (hereinafter NRPAs) as a part of this Assessment to include Camp Keis Strand, CREW Lands, Okaloachoochee Slough, Belle Meade and South Golden Gate Estates.
21. During the interim three-year study period, Paragraph II of the Final Order imposes limitations upon the types of land uses that are permitted in the Agriculture/Rural Assessment Area.
22. Paragraph II of the Final Order places limitations upon the types of land uses permitted within the NRPAs during the interim three-year study period.
23. On September 14, 1999, Collier County adopted Interim Amendments to its GMP pursuant to the Final Order which amendments limit the types of land uses that are permitted within the Agricultural/Rural Assessment Area and the NRPAs for a maximum of three years or until June 22, 2002 or an earlier time should the Assessment or any phase thereof be completed sooner.
24. Said Interim Amendments have been transmitted to the DCA and are under review.
25. Pursuant to the "Schedule for Remedial and Interim Plan Amendments" of the Final Order, Collier County must adopt implementing land development regulations by November 14, 1999.
26. At a minimum, the Assessment must identify means to accomplish the following:
 - a. Identify and propose measures to protect prime agricultural areas. Such measures should prevent the premature conversion of agricultural lands to other uses.
 - b. Direct incompatible land uses away from wetlands and upland habitat in order to protect water quality and quantity and maintain the natural water regime as well as to protect listed animal and plant species and their habitats.
 - c. Assess the growth potential of the Area by assessing the potential conversion of rural lands to other uses, in appropriate locations, while discouraging urban sprawl, directing incompatible land uses away from critical habitat and encouraging development that utilizes creative land use planning techniques including, but not limited to, public and private schools, urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions and mixed use development. The Assessment shall recognize the

substantial advantages of innovative approaches to development which may better serve to protect environmentally sensitive areas, maintain the economic viability of agricultural and other predominantly rural land uses, and provide for the cost-efficient delivery of public facilities and services.

SECTION THREE: ADOPTION OF AMENDMENTS TO LAND DEVELOPMENT CODE

Division 2.2., Zoning Districts, Permitted Uses, Conditional Uses, Dimensional Standards of Ordinance 91-102, as amended, The Collier County Land Development Code, is hereby amended to add new Sections 2.2.30 and 2.2.31, respectively, to read as follows:

SUBSECTION 3.A AMENDMENTS TO ZONING DISTRICTS, PERMITTED USES, CONDITIONAL USES, DIMENSIONAL STANDARDS DIVISION ADDING DECLARATION OF PARTIAL MORATORIUM, EXCEPTIONS THEREFROM AND MAP FOR RURAL AND AGRICULTURAL AREA ASSESSMENT

Section 2.2.30 Declaration of partial moratorium for rural and agricultural area assessment.

2.2.30.1 Duration. For a period not to exceed three (3) years from the date of the Final Order of the Administration Commission in Case No. 99-02 (DOAH Case No. 98-0324 GM) or June 22, 2002, certain land uses as set forth in Subsection 2.2.30.3 of this code are prohibited.

If the County elects to address a specific geographic portion of the assessment area as a phase of the assessment, the restrictions on development of Subsection 2.2.30.3 shall be lifted from such specific geographic area upon completion of the applicable phase of the assessment and the implementing growth management plan amendments for that phase become effective.

2.2.30.2 Geographic scope of rural and agricultural assessment area. The geographic scope of the Assessment Area ("Area") shall be as follows:

**Includes: All lands designated Agricultural/Rural
Big Cypress Area of Critical State Concern
Conservation lands outside the Urban boundary
South Golden Gate Estates**

**Excludes: All Urban designated areas
Northern Golden Gate Estates
The Settlement District**

2.2.30.3 Prohibited Uses. The following uses are hereby prohibited for a maximum three year period while the rural and agricultural area assessment is being conducted.

- 1. New golf courses or driving ranges.**
- 2. Extension or new provision of central water and sewer service into the Area.**
- 3. New package wastewater treatment plants.**

4. Residential development except farmworker housing or housing directly related to support farming operations, or staff housing (12 du/acre) and other uses directly related to the management of publicly-owned land, or one single family dwelling unit per lot or parcel created prior to June 22, 1999.
5. Commercial or industrial development except gas and telephone facilities, electric transmission and distribution facilities, emergency power structures, fire and police stations, emergency medical stations.
6. Transient residential such as hotels, motels, and bed and breakfast facilities.
7. Zoo, aquarium, botanical garden, or other similar uses.
8. Public and Private schools.
9. Collection and transfer sites for resource recovery.
10. Landfills.
11. Social and fraternal organizations.
12. Group care facilities.
13. Sports instructional schools and camps.
14. Asphaltic and concrete batch making plants.
15. Recreational Vehicle parks.

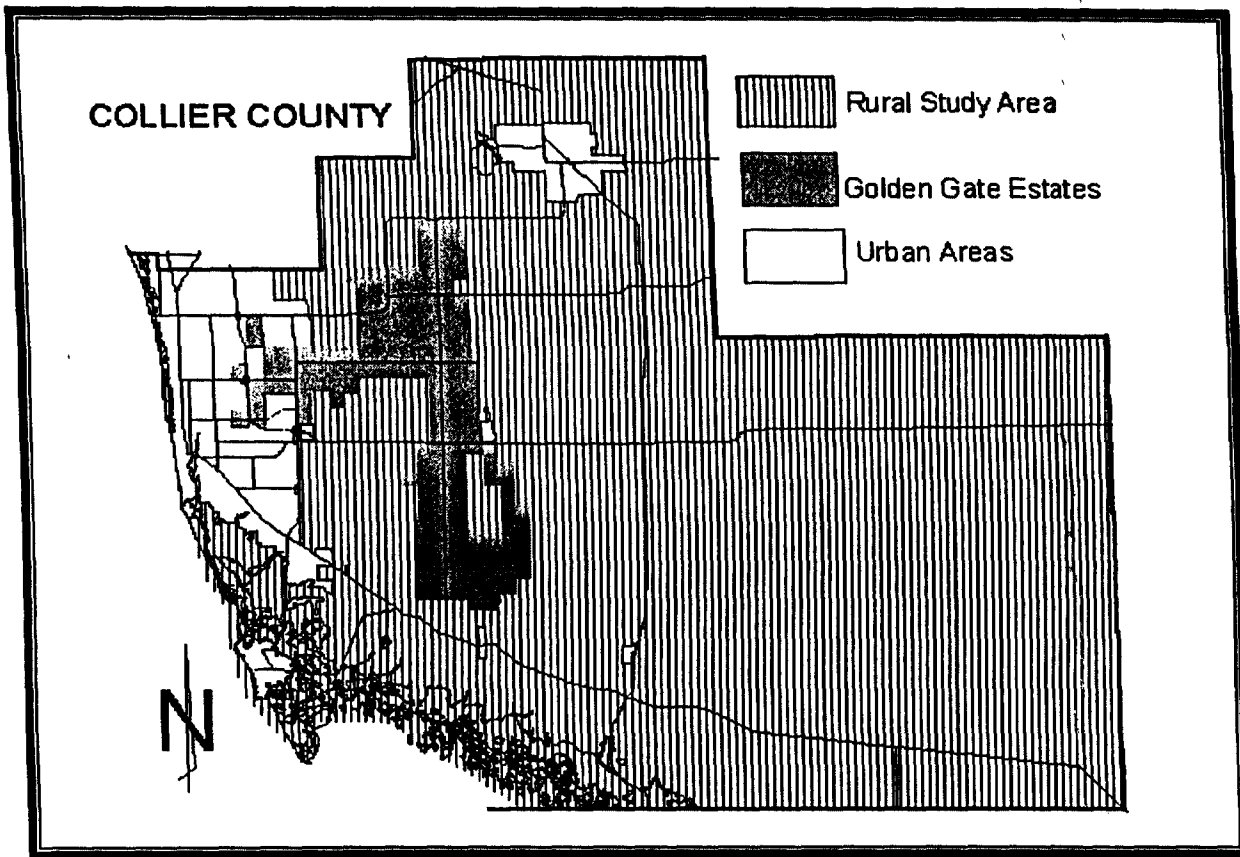
2.2.30.4

Exemptions. Residential and other uses in the Rural and Agricultural Assessment Area for which completed applications for development approval, rezonings, conditional uses, subdivision approvals, site plan approvals, or plats were filed with or approved by Collier County prior to June 22, 1999, shall be processed and considered under the Growth Management Plan, specifically pages LU-I 39 through 45 of the Future Land Uses Element thereof as it existed and was in effect on June 22, 1999 and Section 2.2.2. of the Collier County Land Development Code in effect on June 22, 1999.

The restriction on uses in the Area, including NRPA's, during the Assessment, or any phase thereof, shall not affect or limit the continuation of existing uses. Existing uses shall also include those uses for which all required permits have been issued, or uses for which completed applications have been received by Collier County prior to June 22, 1999. The continuation of existing uses shall include expansions of those uses, if such expansions are consistent with or clearly ancillary to the existing use and do not require a rezone or comprehensive plan amendment.

2.2.30.5

Map. The following map depicts the Rural and Agricultural Assessment Area:



Map #6

SUBSECTION 3.B AMENDMENTS TO ZONING DISTRICTS, PERMITTED USES, CONDITIONAL USES, DIMENSIONAL STANDARDS DIVISION ADDING DECLARATION OF PARTIAL MORATORIUM, EXCEPTIONS THEREFROM AND MAP FOR NATURAL RESOURCE PROTECTION AREAS.

SECTION 2.2.31 Declaration of partial moratorium for natural resource protection areas. (NRPAs).

2.2.31.1 *Duration.* For a period not to exceed three (3) years from the date of the Final Order of the Administration Commission in Case No. 99-02 (DOAH Case No. 98-0324 GM), or June 22, 2002, only certain land uses as specified in Subsection 2.2.31.3 of the Code shall be permitted in the natural resource protection areas (NRPAs).

2.2.31.2 *Geographic scope of natural resource protection areas.* The natural Resource protection areas include the following areas generally described as: The Camp Keis Strand, CREW Lands, Okaloacoochie Slough, Belle Meade and South Golden Gate Estates.

2.2.31.3 *Permitted Uses.* The following uses shall be the only uses allowed in the natural resource protection areas during the maximum three (3) year assessment period or any phase thereof:

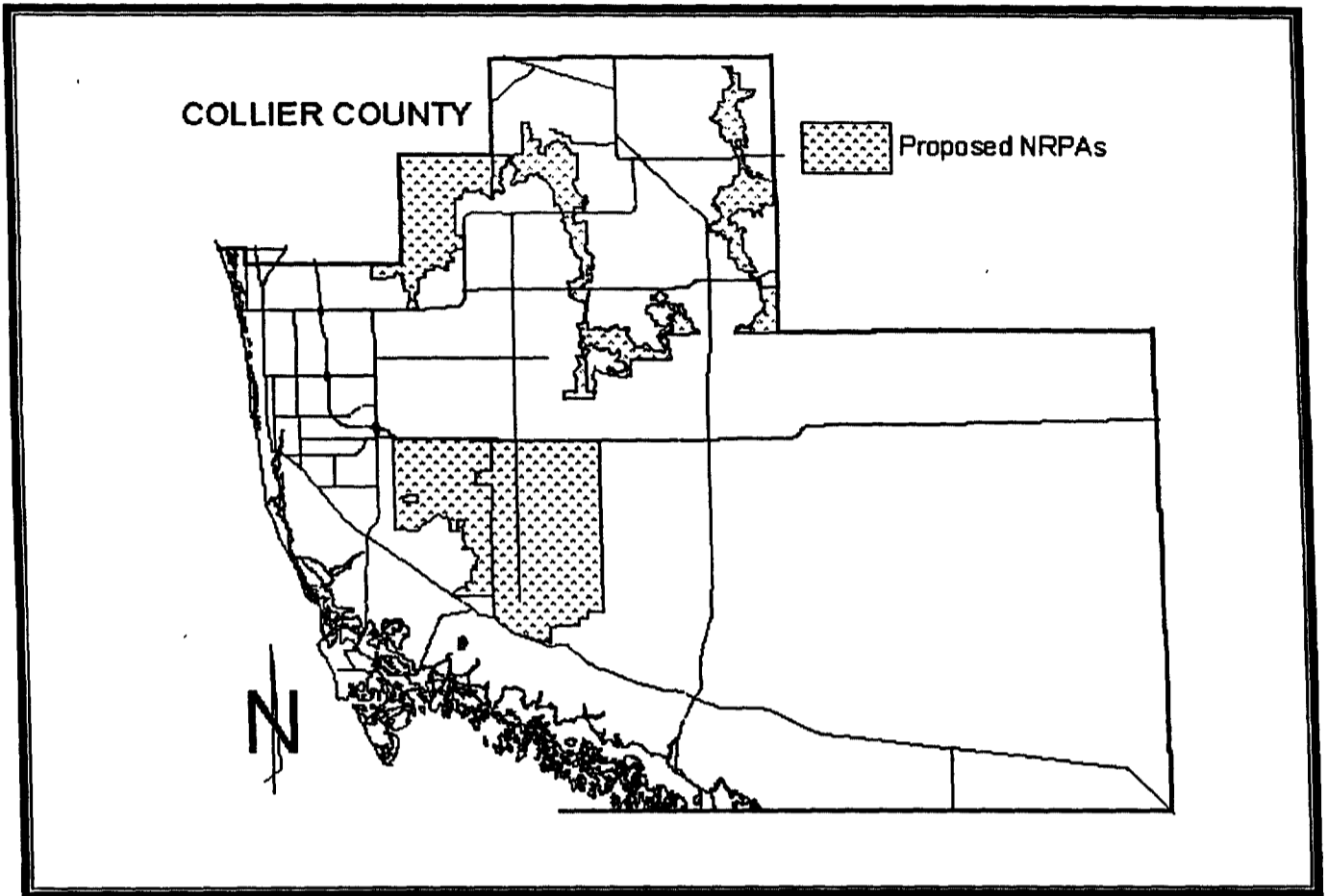
- 1. Agricultural and directly related uses.**
- 2. One single-family dwelling unit per lot or parcel created prior to June 22, 1999.**

2.2.31.4 *Exemptions.* The restriction on uses in the Area, including NRPAs, during the Assessment, or any phase thereof, shall not affect or limit the continuation of existing uses. Existing uses shall also include those uses for which all required permits have been issued, or uses for which completed applications have been received by Collier County prior to June 22, 1999. The continuation of existing uses shall include expansions of those uses, if such expansions are consistent with or clearly ancillary to

the existing use and do not require a rezone or comprehensive plan amendments.

2.2.31.5

Map. The following map depicts the natural resource protection areas:



Map # 7

SECTION FOUR: CONFLICT AND SEVERABILITY

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of this Ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

SECTION FIVE: INCLUSION IN THE COLLIER COUNTY LAND DEVELOPMENT CODE

The provisions of this Ordinance shall become and be made a part of the Collier County Land Development Code. The sections of the Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION SIX: EFFECTIVE DATE.

This Ordinance shall not become legally effective until the supporting Interim Amendments to the Growth Management Plan required by the Administration Commission Final Order in Case No. 99-02 (DOAH Case No. 98-0324 GM) become legally effective pursuant to Subsection 163.3189(2)(a), *Florida Statutes*.

PASSED AND DULY ADOPTED by the Board of County Commissioners of Collier County, Florida, this 3rd day of November, 1999.

ATTEST:
DWIGHT E. BROCK, Clerk

BOARD OF COUNTY COMMISSIONERS
OF COLLIER COUNTY, FLORIDA

By: Pamela S. MacKie
PAMELA S. MAC'KIE, Chairwoman

By: Elliot Hoffman, P.C.
Attest as to Chairman's signature only.
Approved as to form and legal sufficiency:

Marjorie M. Student
Marjorie M. Student
Assistant County Attorney
450671.2

This ordinance filed with the Secretary of State's Office the 8th day of Nov., 1999 and acknowledgement of that filing received this 15th day of Nov., 1999
By: Dennis J. Baker
Deputy Clerk

STATE OF FLORIDA)
COUNTY OF COLLIER)

I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true copy of:

ORDINANCE NO. 99-77

Which was adopted by the Board of County Commissioners on the 3rd day of November, 1999, during Special Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 4th day of November, 1999.

DWIGHT E. BROCK
Clerk of Courts and Clerk
Ex-officio to Board of
County Commissioners

Ellie Hoffman
By: Ellie Hoffman,
Deputy Clerk

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

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