

**MANATEE COUNTY BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
COUNTY ADMINISTRATION CENTER, HONORABLE PATRICIA M. GLASS CHAMBERS
1112 Manatee Avenue West
Bradenton, Florida
November 18, 2021**

Meeting video link: <https://www.youtube.com/channel/UCUlgjuGhS-qV966RU2Z7AtA>

Present were:

Vanessa Baugh, Chairman
George Kruse, First Vice-Chairman
Kevin Van Ostenbridge, Second Vice-Chairman
Reggie Bellamy, Third Vice-Chairman
James A. Satcher III
Misty Servia
Carol Whitmore

Also present were:

Robert Wenzel, Division Manager
Rossina Leider, Planning Section Manager
Sarah Schenk, Chief Assistant County Attorney
Quantana Acevedo, Deputy Clerk, Clerk of the Circuit Court

Chairman Baugh called the meeting to order at 1:30 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE

1. The Invocation was delivered by Suzan Boyd, CityMatters Ministries, followed by the Pledge of Allegiance.

AGENDA

Agenda Update Memorandum:

BC2021118DOC001

BC2021118DOC002

- Item 2, Comprehensive Plan Text Amendment PA-20-16/Ordinance 21-12 LWR Communities LLC/NE Expansion Text Amendment – Revised ordinance presented
- Item 3, Comprehensive Plan Text Amendment PA-20-05/Ordinance 21-07, Peril of Flood Act Compliance – Presented were an updated Exhibit B to include Implementation Mechanism language associated with policies 4.4.4.2 and 4.4.4.3. and a public comment email (11/8/21) from Karen Ciemniecki presented

Time Certain:


- Item 3, Comprehensive Plan Text Amendment PA-20-05/Ordinance 21-07, Peril of Flood Act Compliance – 1:30 p.m.


CITIZEN COMMENTS (Future Agenda Items)

There being no further citizen comments, Chairman Baugh closed citizen comments.


ADVERTISED PUBLIC HEARING (PRESENTATION SCHEDULED)


3. **ORDINANCE/COMPREHENSIVE PLAN**

 A duly advertised public hearing was held to consider transmittal of proposed Comprehensive Plan Text Amendment PA-20-05/Ordinance 21-07, Peril of Flood Act Compliance (County-Initiated). The Planning Commission recommended transmittal (10/14/21).


 Nicole Knapp, Impact Fee Administrator, submitted additional public comment correspondence, which have not been read by staff. She utilized a slide presentation to review the Peril of Flood Act (POF), defined an EAR (Evaluation and Performance and Appraisal Report), 2015 Peril of Flood [F.S. 163.3178(2)(f)], technical support documents, and a summary of


amendments. Staff requested transmittal of the Comprehensive Plan Amendment PA-20-05/Ordinance 21-47.


 Mark VanDeRee commented on building too close to tide lines.


 Ken Piper remarked on how wetlands function along coastlines, and how the destruction of wetlands affect water bodies.

 Edward Vogler pointed out that this Comprehensive Plan text amendment would affect the development community, because it would regulate private property. He supported the transmittal (displayed language from Florida Department of Economic Opportunity).

 Carol Clarke supported the transmittal and stated she would work with staff on assisted living facilities.


 Priscilla Trace expressed concern with fill dirt along coastal areas.

 Betsy Benac agreed with Mr. Vogler. The plan amendment would grant two exceptions to language already in the Comprehensive Plan. She cited 4.4.4.1-4.4.4.3 and questioned why the Board is going backwards.


 Scott Rudacille stated the Comprehensive Plan amendment would provide statutory requirements and supported the transmittal.


 Carol Felts commented on growth.


 By telephone, Shane Wedel agreed with the Ms. Benac and Ms. Trace.

 By telephone, Matthew Bower questioned what the County Consultant recommended to staff and expressed concern with Policy 4.4.4.4, regarding Seawalls.

There being no further public comment, Chairman Baugh closed public comment.

 Commissioner Kruse pointed out two sections were added after the Planning Commission meeting and touched on seawalls and fill dirt. Legislative platform priorities revolve around the preservation of water.

 Commissioner Servia inquired about the deadline EAR (12/1/21), accomplished requirements with this amendment (with previous versions, but not this version), other municipalities making similar changes, elevate property in the flood zones, what happens to surrounding properties if fill and seawalls are utilized, vulnerability assessment, change now is better than the original Comprehensive Plan policy adoption, seawall permits, and protecting Manatee County.


 Thomas Gerstenberger, Stormwater Engineering Division Manager, spoke on fill and noted it depends on the property location, and the type of flooding (drainage issues or storm surge) requires different criteria.


 Ms. Clarke responded that the change added addresses how to get properties out of the


FEMA flood zone which is required by Statute.

Discussion ensued regarding elevation, fill and, seawalls, and Manatee County is within three estuaries.


Mr. Rudacille noted language encourages the removal of property from the FEMA maps. It does not say seawalls are required or to impact coastal wetland areas. Overall the requirement is to remove property from the maps.


 Chairman Baugh questioned if the amendment is consistent with what the State is requiring.


 Ms. Knapp reported coastal mapping was discussed as a whole but Peril of Flood was not.


 Commissioner Satcher stated this amendment is an opportunity to make a difference.

Motion


 Based on the evidence presented, comments made at the public hearing, the technical support documents, and finding the request to be consistent with the Community Planning Act as codified in applicable portions of Chapter 163, Part II, Florida Statutes and the Manatee County Comprehensive Plan, Commissioner Satcher moved to transmit Comprehensive Plan Amendment PA-20-05/Ordinance 21-07 as recommended by the Planning Commission. The motion was seconded by Commissioner Baugh.

 Commissioner Van Ostenbridge asked if this amendment would affect removal of mangroves, destruction of seagrasses, create beach erosion, runoff into the bay, building of seawalls, increase density, or affect water quality.

 Gary Race, Environmental Planning, noted the amendment does not change how mangroves are treated and there is the potential for fill material to affect seagrass.

 Discussion ensued regarding mangroves are controlled by FDEP, which the County can't change their rules, would separation be required for building a seawalls in mangroves, what is the cost to taxpayers if seawalls are allowed, because it could affect property taxes, believe in property rights and also for preservation of important lands, there are inconsistencies in the Comprehensive Plan as amendments are adopted, this could hurt the community, concern with possible impact on water quality, proposed ordinance impact on legislative platform (support water quality), and no problem with fill, but concerned with rip rap and seawalls.

Motion - Amended

 Based on the evidence presented, comments made at the public hearing, the technical support documents, and finding the request to be consistent with the Community Planning Act as codified in applicable portions of Chapter 163, Part II, Florida Statutes and the Manatee County Comprehensive Plan, Commissioner Kruse moved to transmit Comprehensive Plan Amendment PA-20-05/Ordinance 21-07 as recommended by the Planning Commission with the exclusion of Comprehensive Plan Policies 4.4.4.2 and 4.4.4.3 (in order to discuss at the adoption hearing). The motion was seconded by Commissioner Servia.


Sarah Schenk, Assistant County Attorney, asked if the amendment to the motion was hostile. Commissioner Satcher did not agree to the amendment to his motion.


Chairman Baugh withdrew her second to the original motion.


Ms. Knapp sought clarification on the amendment by pointing out the excluded policies could not be added at the adoption hearing.


 Commissioner Van Ostenbridge asked about obtaining a seawall currently.


Mr. Race stated seawalls could be obtained in certain situations; this ordinance would allow seawalls.

 Mr. Gerstenberger read Comprehensive Plan Policy 4.4.2.6.

 Ms. Knapp stated inconsistencies would exist, because the words allow and prohibit exist in other sections.

 Ms. Schenk stated some language has been corrected and she pointed out her comments in memo. There are inconsistencies and all policies must be considered together, and there needs to be an amendment made to other policies.

 Sandy Tudor, Floodplain Management, responded to questions and noted if fill is brought in to build on it must be compacted to hold the structure and an engineer must confirm. A drainage plan must be submitted, and drainage should not flow onto neighboring properties.

 Mr. Gerstenberger stated there are different concerns with fill depending on the flood area, and fill material is meant to keep a house from sinking. Fill under an elevated house can be washed away, but the house would still be standing.

Discussion ensued regarding concern that the work of the consultant was just dismantled and protection of the coastline is necessary, there are not many residences on open water without seawalls, and protecting property rights does not have to be with seawalls.

A motion was made by Commission Bellamy and seconded by Commissioner Kruse to call the question.

Ms. Schenk asked Ms. Knapp to read Comprehensive Plan Policy 4.4.4.4:

Policy 4.4.4.4. Require new development and redevelopment to employ site development techniques that reduce flood losses and claims made under flood insurance policies, including structural and non-structural site development techniques, such as grading of real property and fill materials added to the real property, or use of appropriate materials such as seawalls and revetments to withstand inundation, minimizing flood damage to structures through flood-proofing techniques and strategies.

Discussion took place on how seawalls and fill materials should be removed in order to be consistent.

The motion to call the question carried 7-0.

Commissioner Kruse asked if his motion should include Policy 4.4.4.4 in order to meet the

intent of his motion.

He amended the motion to include exclusion of Policy 4.4.4.4.


The amended motion carried 6-1, with Commissioner Satcher voting nay.


BC2021118DOC003

RECESS/RECONVENE: 3:38 p.m. – 3:49 p.m. All Commissioners were present.


ADVERTISED PUBLIC HEARING (Presentation upon request)


1. **ORDINANCE/COMPREHENSIVE PLAN**


 A duly advertised public hearing was held to consider adoption of proposed Comprehensive Plan Amendment PA-21-02/Ordinance 21-26, Creation of a Property Rights Element (County-Initiated). The Planning Commission recommended transmittal on August 12, 2021, and the County Commission recommended transmittal on September 16, 2021.


 Lisa Wenzel, Planning Section Manager, noted the DEO had one comment which has been incorporated into the language.

 Sarah Schenk, Chief Assistant County Attorney, read the proposed change.

 Mark VanDeRee commented on property rights infringing on others and having a negative effect.


 Ken Piper questioned the Comprehensive Plan procedures in relation to Florida Statute 163.

 Carol Felts stated citizens have rights to participate and understand land use.

 By telephone, Garrett Ramy commented on property rights especially in regards to mining and residents not being considered.

By telephone, Charlene Dell agreed with previous speakers in regards to property rights.

There being no additional public comment, Chairman Baugh closed public comment.

 Discussion ensued on the importance of property rights, having the public hearings before the Planning Commission and the Board of County Commissioners.

Based upon the evidence presented, comments made at the public hearing, the technical support documents, the action of the Planning Commission and finding the request to be consistent with the Community Planning Act as codified in applicable portions of Chapter 163, Part II, Florida Statutes and the Manatee County Comprehensive Plan, Commissioner Servia moved to adopt Comprehensive Plan Amendment PA-21-02 (Ordinance 21-26), as recommended by the Planning Commission. The motion was seconded by Commissioner Bellamy.


Discussion ensued that Manatee County has the strictest ordinances for phosphate mining, which is strictly regulated.


 The motion carried 7-0.


BC2021118DOC004


ADVERTISED PUBLIC HEARING (PRESENTATION SCHEDULED)

2. ORDINANCE/COMPREHENSIVE PLAN


 A duly advertised public hearing was held to consider adoption of proposed Comprehensive Plan Text Amendment PA-20-16/Ordinance 21-12, LWR Communities LLC/NE Expansion (Privately-Initiated). The Planning Commission recommended transmittal on March 11, 2021, and the County Commission recommended transmittal on April 15, 2021.

 Caleb Grimes, Attorney for LWR Communities LLC, stated this request is an amendment the Comprehensive Plan to allow an exception for limiting urban sprawl for lands adjacent to the Future Development Area Boundary (FDAB). Two concerns were raised at the transmittal hearing that have been addressed: exception was exclusive to LWR and they would need to apply for the exception.


 Discussion took place that this creates no risk to the public at large, LWR expanded infrastructure to connect to County utilities, the area to be developed would have to comply with Comprehensive Plan Policy 2.1.2.8, and this request has nothing to do with the FDAB line (the line would not be moved).


 Jay Taylor, owner of Taylor Ranch, stated he has continued to address concerns in the surrounding area, and he would not advocate moving the FDAB.


 Carol Felts stated many residents in the County are unaware of what district they live in or who their Commissioner is. At the town hall meetings, no one from the public agreed with this amendment.


 Elizabeth Arnold displayed pictures on her iPad (shown at the Planning Commission on 3/11/21) as she expressed concern with the adoption of the ordinance since it could affect development in the area.


 Ken Piper expressed concern with the LWR seeking ad hoc development, and he would like property to be conserved.


 Mark VanDeRee, Waterline Road Preservation Group, opposed the plan amendment, because it would burden East County (affect traffic, water quality, watershed, wildlife and cause light, air and noise pollution). He displayed a map to point out Waterline Road, Dam Road and S.R. 64, and the FDAB.


 Meredith Barcomb remarked on the term contiguous, and expressed concern with how the proposed plans would affect residents, the necessity of additional public forums for working citizens, encroachment on residents who live on Waterline Road and Dam Road, lands east of FDAB are being slowly encroached on by developers, and increased density. She asked for this item not to be adopted and for a moratorium on zoning approval be adopted.

 Kathleen Strong, butterfly farmer and East County resident, expressed concern with overpopulation, the effect on the environment, wildlife protect and residents.


 By telephone, Garrett Ramy pointed out SMR started as landscapers and once the line is breached, it would continue to be moved. The Board could help with Myakka City getting internet access and the County has no vision.

 By telephone, Charlene Dell opposed the ordinance and expressed concern with the County having no vision or planning, runoff, red tide and water and land shortages.

 Glen Gibellina agreed with previous speakers and suggested a moratorium on building permits.

 Kim Fury expressed concern with the definitions, because they are open to interpretation, and adoption of this amendment would affect wildlife and quality of life.

There being no further public comment, Chairman Baugh closed public comment.

 There was discussion on how this item cannot be put aside, because it has to be considered before November 23, 2021, an investigation in Building and Development Services does not have a bearing on this matter, additional burden and development (no matter the type of development it would create a burden), job base and economy are here because of development, no one wants development in their backyard, the County Commission has to look at each request individually, the County does not have a water shortage, Rye Road would receive the additional traffic not Waterline Road, must remember that SMR has done some great things in the County, cannot stop farmers from selling their land, this County would not implement a moratorium, because it would affect jobs, phosphate mining existed in this County before most residents lived here, growth is happening all over the State, C.R. 675 is not in Myakka City, and would like residents to continue to be active.

Based upon the staff report, evidence presented, the action of the Planning Commission, and finding the request to be consistent with the Manatee County Comprehensive Plan and the applicable portions of Chapter 163, Part II, Florida Statutes, Commissioner Van Ostenbridge moved to adopt Comprehensive Plan PA-20-16/Ordinance 21-12, as recommended by the Planning Commission. The motion was seconded by Commissioner Servia.

Mr. Grimes stated due to the changes, the ordinance would not be as recommended by the Planning Commission.

The motioner and seconder agreed with Mr. Grimes.

Commissioner Servia explained the purpose of the FDAB.

The motion carried 7-0.

Chairman Baugh asked Mr. Taylor and Mr. Grimes to work with staff.

BC2021118DOC005

ADJOURN

There being no further business, Chairman Baugh adjourned the meeting at 5:53 p.m.

Minutes Approved: January 31, 2023