

**SPECIAL MEETING - BABCOCK RANCH TDU APPEAL AND COMPREHENSIVE
PLAN AMENDMENT APPLICATION**

BOARD OF COUNTY COMMISSIONERS

DECEMBER 14, 2005

A special meeting of the Board of County Commissioners was held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman Thomas G. Moore and Commissioners Sara J. Devos, Adam Cummings, Thomas C. D'Aprile and Matthew D. DeBoer. Also in attendance were County Administrator Bruce D. Loucks, Assistant County Attorney Richard A. Browne, Finance Director Ann Navan, Executive Assistant to the Board Judy Hunter and Deputy Clerk Gail Manley. The meeting was called to order at **9:02 A.M.** followed by the Pledge of Allegiance to the Flag. (**Proof of Publication was in order.**)

Bruce D. Loucks, County Administrator, advised a motion was approved at the December 13, 2005 Regular Meeting of the Board to set a Public Hearing for January 10, 2006 at 2:00 P.M. to consider the Interlocal Planning Agreement for Babcock Ranch, which included revised water resources provision; and request is made for re-scheduling of the Public Hearing to January 24, 2006 at 10:00 A.M. because a full Board is not available on January 10, 2006. **COMMISSIONER DEVOS MOVED TO ADD THE INTERLOCAL PLANNING AGREEMENT FOR BABCOCK RANCH TO THE JANUARY 24, 2006 AGENDA, SECONDED BY COMMISSIONER DEBOER AND DECLARED UNANIMOUS. COMMISSIONER DEVOS MOVED TO CHANGE THE PUBLIC HEARING SET FOR JANUARY 10, 2006 AT 2:00 P.M. TO CONSIDER THE INTERLOCAL PLANNING AGREEMENT FOR BABCOCK RANCH TO BE MOVED TO THE JANUARY 24, 2006 MEETING OF THE COUNTY COMMISSION AT 10:00 A.M., SECONDED BY COMMISSIONER DEBOER AND DECLARED UNANIMOUS.**

Pledge of Allegiance.

**I. Transfer of Density Units Appeal (Quasi-Judicial)
Commission District I**

Commissioner DeBoer requested there be a short discussion on the process before proceeding with Agenda Item I because the timing appears to be out of sequence, and questioned if it is the

appropriate time to hear the issue. **Commissioner DeBoer** explained reference is made to a waiver, but in the process it is called an appeal to the TDU Ordinance; density is created in the overlay, not through an appeal of the TDU Ordinance; and the appeal or waiver of the TDU Ordinance is in what is being submitted as part of the overlay. **Commissioner DeBoer** advised the waiver or appeal of the TDU Ordinance and the overlay are factors that tie into this; but the state approval to purchase 74,000 acres is an integral part because that would be the under-opinion of the public purpose if the TDU Ordinance were to be waived. **Commissioner DeBoer** stated advise from legal counsel is needed because it appears this may not be the appropriate process. Richard A. Browne, County Attorney, stated he, the County legal consultant Harry Roth, and Ernie Cox, lead counsel for the Kitson Group, met and agreed the issue should be tabled; there are procedural questions as to whether an appeal and waiver are the same, and which is the proper process to follow; he and Attorney Roth would review further but need additional time; and there is no need for the issue to be discussed today because if a separate TDU waiver is ever necessary, it could be done in the future. Attorney Browne pointed out there are two policies in the plan amendment exempting the Babcock Ranch overlay district from the TDU Ordinance itself, and if the plan amendment as currently written is ever adopted, that would have the effect of waiving the TDU Ordinance. **Commissioner DeBoer** relinquished the floor for additional discussion. **Chairman Moore** inquired if this is to be tabled or postponed, and Attorney Browne said it is the same thing. **Commissioner Devos** stated she preferred a motion be put in place where approval or decision is delayed until such time the Board does or does not support the overlay when it comes back and the issue be taken up at a time specific rather than tabling it. **Commissioner DeBoer** inquired if the Board wished to allow Mr. Kitson's attorney to comment. Attorney Browne stated he would like to have Mr. Kitson's attorney's approval on the record. Ernie Cox, representing Kitson & Partners on Babcock Ranch, stated he agrees with the procedure outlined by Attorney Browne. **COMMISSIONER DEBOER MOVED TO DELAY THE APPEAL PROCESS SO IT WOULD BE DONE IN CONCERT WITH THE OVERLAY ADOPTION HEARING, SECONDED BY COMMISSIONER DEVOS AND DECLARED UNANIMOUS.**

II. PA-05-09-61-LS (Legislative) Commission District I

Michael Konefal, Director, Community Development, indicated Agenda Item II, PA-05-09-61-LS, is a large-scale comprehensive plan amendment application from agriculture and resource conservation to Babcock Ranch Overlay District (BROD); and included within the Comprehensive Plan Application is a change to the urban service area boundary by including this property within the urban service area. Mr. Konefal indicated the overall ranch in Charlotte and Lee Counties is 91,362 acres; proposed for sale to the state of Florida is 74,000 acres, which includes land in Lee and Charlotte Counties; but this amendment deals only with 13,686 acres in the southwest corner of the property within Charlotte County. Mr. Konefal stated this is a transmittal hearing; and explained the procedures in dealing with large-scale plan amendments and the six major agreements or approvals that are part of the process. Mr. Konefal pointed out the Comprehensive Plan Application was originally presented as an Interim Comprehensive Plan Application, but has been changed to a Standard Comprehensive Plan Amendment Application. Mr. Konefal advised because of the size of the development, the proposal would have to go through a Development of Regional Impact (DRI) review or a Rural Land Stewardship Program (RLSP) review, but which is yet to be determined. Mr. Konefal explained there is development proposed in Lee County, and as a result Comprehensive Plan and Zoning Amendments will occur in Lee County and be folded into the DRI process; there will be public hearings in Lee County, but only for the small portion of land that is within that jurisdiction. Mr. Konefal indicated three binders covering the entire application of this project to date, twenty-eight (28) staff reports, and an executive summary, are available for review in the County offices, the Public Libraries and online. Mr. Konefal cautioned this contains a lot of material and advised it be reviewed in the library or a copy obtained because it is very time-consuming to download. Mr. Konefal said the team reviewed all policies in the Comprehensive Plan, environmental impacts on the ranch as a whole, as well as the subject area for the amendment, all infrastructure impacts of the development, impacts to roads, sewer, potable water, drainage, parks, solid waste, schools, fire, Emergency Management System (EMS), Sheriff's office, affordable and workforce housing, and financial impacts of this development, to determine if the development pays for itself. Mr. Konefal

reviewed several issues that were of concern and contradictory to the Comprehensive Plan policies. Mr. Konefal advised a financial analysis model, referred to as the Fiscal Impact Assessment Model (model), is used in some counties and governments in Florida to determine if development pays for itself, and was submitted as part of the report. Mr. Konefal expressed concern with use of the model because many things have changed between the time the application was submitted and today and the model not updated; staff does not agree with the variables that go into the model, therefore cannot agree with the outcome; and cannot conclude if there would be a net positive or net negative fiscal impact. Mr. Konefal indicated development doesn't pay for itself unless there are high-value homes or some type of high-value industry that brings in additional taxes, but this development, as compared to other developments, would probably pay a lot more than other developments. Mr. Konefal said based upon review of the mean issues, staff recommends denial of the application. Mr. Konefal explained the development would afford some benefits to the County, but staff has concern that cost of a new development, sprawl, and impacts to the County, may be negative, and possibly outweigh the positives. Mr. Konefal advised as an alternate option staff listed 35 conditions in the report and added a 36th condition that the applicant provide for hurricane shelters and emergency communications facilities as it pertains to more emergency hurricane-type issues; indicated not all of the 36 conditions belong in a Developer's Agreement; and requested there be general language stating it could be done through a Developer's Agreement, through the Comprehensive Plan, or as a condition of approval. Mr. Konefal explained the 36 conditions are the beginning of negotiations and from the County's prospectus the best time to negotiate is early in the process, but it also allows all conditions to be stated up front. Mr. Konefal said the best opportunity for negotiation is for staff and applicant teams to get together and work through the 75 policies/36 conditions and come to the Board for direction as necessary; and requested if Board approves the transmittal, it be with the 36 conditions, staff Comprehensive Plan policy changes, and general conditions of approval; and give staff the opportunity for negotiations, with the understanding it is a negotiation process. Syd Kitson, Kitson & Partners, indicated a unique opportunity is presented for preservation and creating a new sustainable community; a series of town hall meetings open

to the public for comments is planned; and gave a brief overview of the development opportunities for Charlotte County. Mr. Kitson explained Fish and Wildlife, Division of Forestry, and Kitson & Partners will jointly manage the ranch for ten years, then turn it over to a not-for-profit corporation to work with the state; the existing ranch employees will remain; the ranch will immediately be open to the public for camping, hiking, bicycle riding, horseback riding, hunting, fishing, and the tours will continue. Mr. Kitson advised the homeowners of the new community would be charged a monthly fee to provide another continuing source of income to make the ranch self-sustaining. Mr. Kitson advised a contract was signed with the State of Florida and Lee County for preserving 74,000 acres; many environmental groups were supportive and of great assistance in putting together the Management Agreement with the State of Florida; and Charlotte County will be given the right to apply for a permit to pump water from the State land. Mr. Kitson said the four-party agreement has been approved by Lee County, the Department of Community Affairs (DCA), and Kitson & Partners, and Charlotte County Planning and Zoning recommended transmittal of the Comprehensive Plan. Ernie Cox, Esq., spoke on behalf of the applicant in support of transmitting the amendment to DCA with the suggested revisions previously provided to the Board. Attorney Cox advised the amendment is to create an overlay district in the Future Land Use Element of the Comprehensive Plan and the amendments would not apply anywhere outside the overlay. Mr. Cox explained a Developer's Agreement is expected; and the Land Development Code for the Babcock Ranch Overlay District giving detail design criteria, setbacks, and landscaping requirements will come before the Board. Mr. Cox requested the amendments that were attached to his December 8, 2005 letter be transmitted, and explained items in the staff recommended revisions that he believed to be problematic. Hank Fishkind explained the firm Fishkind and Associates developed the Fiscal Impact Analysis Model (FIAM) over the last three years under contract with the DCA; the DCA accepted the model and uses it statewide to estimate costs and revenues associated with land use development programs and test county comprehensive plans and capital improvements elements to determine financial feasibility. Mr. Fishkind presented an overview of the use of the Fiscal Impact Analysis Model in the Babcock Ranch project and a summary of findings; gave examples of areas where the model has been used, indicating it has a 15-year history of

success and reliability; and stated he believes the Babcock project would more than pay for itself, generate substantial surplus, and mitigate 100% of its impacts. David Plummer, David Plummer and Associates, reported this firm is the transportation consultant for the Babcock Ranch project; gave some of the qualifications and previous projects of the firm; explained methods of calculations; and presented a slide summary of the roadway improvements at a Comprehensive Plan Amendment level that this project is anticipated to require at build out. Attorney Cox presented additional slides and stated the project is not in a remote area except for the north portion; showed a map of current projects surrounding the Babcock Ranch project that have either been approved or are in the planning process; discussed components of sprawl; and stated based upon material submitted and the data, this is not sprawl. Attorney Cox indicated a request is also being made for a special urban services district for the Babcock Ranch Overlay District; and pointed out that Lee County does not do urban services districts, but have planning communities with subset plans within. Attorney Cox stated it was questioned at the Planning & Zoning meeting about the potential corridor at the connection from Curry Wake to Telegraph Swamp, and advised it was agreed in the purchase and sale agreement with the State that area of approximately 294 acres would be put into a conservation easement. Attorney Cox presented a concept being worked on in the charrette planning process to take the corridor and do a bridge over it so wildlife could go under the bridge; there will be fences on both sides of the bridge and a multi-use corridor that could be driven through with a car or golf cart, bicycle, or hike through it; and explained the idea is to take an environmental resource and make it a community amenity, while being able to get through it for transportation purposes. Arnie Sarlo advised he has been General Manager of Babcock Ranch for seven years and spoke in favor of the Babcock Ranch project. Mr. Kitson thanked Michael Konefal, Bruce Loucks and their staffs for the time, effort, and courtesy extended while negotiating the issues. Mr. Konefal indicated he would like to comment on the staff policies and report and applicant's policies and conditions later.

RECESS 10:20 A.M. to 10:30 A.M.

Charles Heekin, Esq. expressed concern with Petition PA-05-09-61-LS in that what is being said is not what is in the written document. Attorney Heekin pointed out the document was signed by Charles DeSanti, Managing Partner of the LLC, not by Mr. Kitson; applicant is requesting density without having density taken from the rest of the ranch; applicant is not required to close on the contract, build or develop; applicant will not build any roads offsite; and the project will end the wildlife corridor. Tom Rice, CEO of Fawcett Memorial Hospital, spoke as a private citizen in favor of transmittal to DCA. Mr. Rice stated it is not just a contrast of what this proposal will do versus what is there now, but what could be there in the future if the proposal is not considered; the enticement of 74,000 acres forever is a legacy to the Board, County, and State; and applauded the Board and County staff for its diligence. David A. Urich, Treasurer of the Responsible Growth Management Coalition, advised this development is likely to happen; that the growth being permitted in Lee County will prevent the project going down S.R. 31 and having any effective interaction with S.R. 80; and there would be a lot of ancillary development not controlled by Mr. Kitson. Mr. Urich stated means of evacuation should be considered; I-75 is the primary access to this development and S.R. 74 the way to get there; and Kitson and Partners should pay to four-lane S.R. 74. Clarke Keller, a Board member of the Environmental Confederation of Southwest Florida, advised this organization does not support the project; there should be a public referendum with visions and ideas from the citizens; the Comprehensive Plan is very important; and staff's comments and recommendations should not be ignored. Kevin Russell, Esq. appeared as President of the Charlotte County Chamber of Commerce. Attorney Russell read a letter from the Board of Directors of the Charlotte County Chamber of Commerce which encourages the Commission to continue the process of evaluation of the Babcock Ranch proposal of Kitson & Partners, and endorses transmittal of the large scale plan amendment of the County's comprehensive plan to the Department of Community Affairs for review and comment. David Ayres of Clear Channel Radio and President of the Charlotte Area Business Alliance stated there is good economical and environmental balance with this project; and development is supported by this organization. John Surkan presented a letter to the Commission and stated he does not approve or disapprove the project, but if it is to go ahead, there must be gain to the community, with no additional cost to

the taxpayers. Peter Bartoloth, Publisher of Inside Magazine, said he sees potential economic and cultural benefits that will enhance the community, and potential problems for which solutions will need to be found. Mr. Bartoloth read a list of positive items to the project he acquired while listening to speakers at this meeting, and stated he supports moving the project forward. Paul O'Connor, AICP, Planning Division Director, Department of Commercial Development of Lee County, presented a letter to the Board, and stated Lee County shares many of the concerns Charlotte County staff has with this proposal from a planning prospective; Lee County has signed the contract for sale and purchase and the planning agreement that sets forth a process, and is putting up \$40 million toward the purchase of the 74,000 acres. Mr. O'Connor said Lee County's main concern is that the impacts from the development be fairly and equitably mitigated regardless of political boundaries; that many of the transportation improvements will happen within Lee County jurisdiction and Lee County wants to be certain the improvements are paid for by the developer, and the effects in Lee County properly and fairly mitigated; and advised Lee County is willing to work with the developer and Charlotte County staff in an effort for improvement. Carl Veaux advised he is a retired educator and principal; there are inaccuracies, inconsistencies and insufficiencies within the application and additional work needed; and recommends denial of transmittal of the application. Ed Chapin stated he is a member of the Environmental Land Acquisition Committee and Director of the Caloosa Land Trust on Pine Island, but is appearing as a private citizen. Mr. Chapin said he has been involved in environmental issues for over 30 years in Charlotte and Lee Counties, and Southwest Florida; is encouraged by the developer's intent to preserve as much of the ranch as proposed, but concerned that putting a city of 50,000 on the south corner will totally disrupt and destroy the history and environment of the land; and cutting up the land will change it forever. Mr. Chapin indicated there was no need to rush this process and recommends denial. Penny Adkinson stated she is very irritated at the talking point of preserving 74,000 acres because everyone knows that Mr. Kitson must sell these acres and will use that money to develop the 17,000 community acres. Ms. Adkinson reported Charlotte County Comprehensive Plan 1.1 directs that 90% of urbanized development be located within the urban service infill area; Policy 2.2.22 of the Future Land Use Element states that need must be demonstrated for agricultural

lands to be converted to other issues and is a critical component of approving a change to comprehensive plans such as those provided by the Babcock Ranch Overlay District; and the application fails to meet both criteria. Ms. Adkinson stated the requirements are in place to protect citizens from development that fails to support community vision and is a tool to help communities assure that growth occurs to support citizens, rather than citizens supporting growth. Ms. Adkinson said there exists no need in Charlotte County for the Babcock Ranch Overlay District that would trigger the conversion of agricultural land to urban uses outside the urban service infill area; that the project does not meet the comprehensive plan standard for need in Southwest Florida; and based upon these assessments, and in conjunction with other issues raised by staff, requests the Board deny transmittal to the DCA. Elaine (unable to determine last name) stated she has mixed feelings about the project but believes Mr. Kitson is truly concerned about the environment and future developers may not be; and this may be the best deal the County will get from Babcock Ranch. Stan Corwin, a member of the Babcock Preservation Partnership, reported the applicant fails to demonstrate how the project will meet objective 1.2, which states the surface waters of Charlotte County shall be protected to insure the quality is maintained or improved to at a minimum meet the standards established by Chapter 62.302. Mr. Corwin stated the applicant proposes to utilize Lake Curry and the Telegraph Swamp to provide sufficient retention and detention of the non-source point pollution created by urban landscapes; staff knows of no cases where the state permits a large-scale development to use state-owned environmental lands to satisfy urban detention and retention needs; and the applicant does not address the concern, nor propose an alternative solution. Mr. Corwin pointed out the roadway construction proposed to widen S.R. 31 and S.R. 74 will degrade water quality and change water delivery patterns; degraded water diminishes our quality of life and economic basis; and because of these and other concerns, urges the Board to deny transmittal of the application. Ruby Daniels advised she has lived near the Babcock land all her life and shared personal experiences of growing up in that area. Ms. Daniels expressed concern that development is stripping the real Florida; and urges the Board not to undermine the Comprehensive Land Use Plan. Josh Weaver, a Lee County school student in the Monday Group, explained the purpose of the Monday Group and advised the acquisition of Babcock Ranch was selected as its

project. Mr. Weaver stated a new city is not in the goals set out by the County; there are other ways to preserve Babcock Ranch; and recommends denial. Barney Mitchell indicated the applicant has failed to meet basic requirements of the Comprehensive Plan; advised the Board should support staff recommendation and deny transmittal to the DCA; and explained reasons for his recommendation. Frank Walker advised staff recommendations are sound decisions and should be followed; and he supports staff recommendation to deny transmittal to the DCA. Bob Burns, Executive Director of Florida Gulf Coast University at Charlotte, stated the University supports the preservation of 80% of the Babcock Ranch and development of the remaining land, and encourages the Board to approve this portion of the process to DCA for continued work. Ray Rose recalled his concern at a time when it was reported the State would not buy a portion of the Babcock Ranch and the possibility of losing the ranch in its totality. Mr. Rose said it is fortunate a person has come forward with a compromise; the points staff has brought up should be considered; and he believes the County can work with the developer for the County's benefit. Ellie Boyd, President of the Responsible Growth Management Coalition that operates primarily in Lee County, indicated the Commission should support staff recommendation and deny transmittal to the DCA of the proposed Charlotte County Comprehensive Plan and the Babcock Overlay; and explained several reasons for that recommendation. Cindy Bear, a fifth generation native Floridian and a member of the Babcock Preservation Partnership, advised the application is inconsistent with Natural Resources and Coastal Planning Element Objective 1.8; the development is sprawl; the applicant fails to show negative impact on Charlotte County; applicant fails to show a need to convert agricultural lands to residential; and recommends the Board deny transmittal to the DCA. Dan Sinclair, appeared on behalf of the Chief Information Officer group in the area, now the Southwest Florida IT Management Forum, stated affordable housing/workforce housing and higher paying jobs are of considerable concern. Mr. Sinclair said the Kitson & Partners proposal would provide a high-technology city with the ability to have commercial space in a self-contained community within walking distance or short driving distance to jobs, and an ability to attract companies that pay higher wages. Mr. Sinclair said there has not been anything better proposed to preserve 74,000 acres of this land; this is a good deal if density can be provided to the city for affordable housing; and approval to

transmit is recommended. Carol Newcomb-Jones, Adjunct Professor at Florida Gulf Coast University and environmental educator, indicated a five-month effort by Kitson & Partners, the State of Florida, environmental groups, Charlotte County, and Lee County working cooperatively together, has resulted in (1) 81% of the ranch, 74,000 acres, being secured forever for its wildlife (2) Charlotte County received support to explore the water resources on the ranch for a potable water supply and (3) an economically viable and ecologically sustainable plan to be developed for the area is emerging. Ms. Newcomb-Jones advised the ranch will be sold, if not to Kitson & Partners, then to another developer, who may do more harm to the ranch than good; and supports transmittal of the application to DCA. Jack Boland, a member of the Babcock Preservation Partnership, indicated the application is incomplete and inconsistent, and proposes changes to the County that will be detrimental, expensive, and contrary to the Comprehensive Plan. Mr. Boland stated all negotiation with Kitson & Partners should be done up front, and requested the Board support staff recommendation to deny transmittal of the Babcock Ranch Overlay District to the DCA. Rose Christ, Director of the Babcock Preservation Partnership, advised the Board should support staff's recommendation to deny transmittal to the DCA of the proposed Charlotte County Comprehensive Plan Babcock Ranch Overlay District because there are discrepancies in the application that should be addressed before considerations are given. Matt Smith, Babcock Preservation Partnership member, urged the Board to support staff's recommendation to deny transmittal to the DCA of the proposed Charlotte County Comprehensive Plan Babcock Ranch Overlay District in its current form because the discrepancies and inconsistencies leave many questions. Mr. Smith stated the decision should not be rushed and staff should be directed to work with the applicant to resolve the many outstanding issues prior to transmittal. Chris McBride, a Lee County resident, requested the Board heed the concerns of staff, not approve the application as it currently exists, and deny transmittal to the DCA. Ms. McBride pointed out Lee County is a good example of sprawl, financial cost for infrastructure will be a burden to the citizens, and environmental cost will be great. Paul Holmes stated Mr. Kitson repeatedly states the environmentalists are in favor of this plan, citing as an illustration Audubon of Florida. Mr. Holmes explained that Audubon of Florida is a very small group of managers who are part of National Audubon and do not have

members in Florida; that the Florida chapters are the strength of Audubon in Florida, and he is the President of Peace River Audubon, the local chapter for the surrounding area. Mr. Holmes advised the Board of Directors of the Peace River Audubon has always been against the plan and wants to see the ranch preserved in its entirety, and to do otherwise would destroy everything around it. Mr. Holmes requested the Board be very cautious and not rush into this. Grace Amodeo expressed concern that with development being ten years out the cost determination may not be accurate because of price increases; the connection between Telegraph Swamp and Curry Lake was announced today and would invade the environmentally sensitive land; there may be other plans we do not know about; and requested the Board not transmit the plan without additional knowledge because there is no need to hurry. Rae Ann Wessel stated the Board heard today from a broad-based group of developers, realtors, students, teachers, professionals in the field of engineering and hydrology, biologists, and concerned taxpayers who came to be recognized for their positions on Babcock Ranch. Ms. Wessel explained this group has studied the original submittal, the November 4th review, responses, and staff review, and are not here to obstruct the process or project, but requests the Board be clear of what is proposed, what the impacts will be, and how those impacts will affect our quality of life. Ms. Wessel reported staff has done an excellent job in professionally reviewing and outlining the conflicts between the Comprehensive Plan and the proposal; that this is one of the most major projects seen in this area in a long time, and staff was requested to review it in less than two months. Ms. Wessel stated there are many areas of the plan with conflicts and requests the Board take the time to get those conflicts straight so that what is transmitted to the DCA is a clear plan and does not get returned with questions of conflict. Ms. Wessel said the comprehensive plan is the blueprint that was created by the citizens of this County and it has held up well; and requests the Board take the time to be certain the application is as complete and clear as it can be, and that all details are clarified. **COMMISSIONER DEVOS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER D'APRILE AND DECLARED UNANIMOUS.** **Commissioner Devos** stated she is a strong supporter of the Comprehensive Plan, but as the County evolves it may be necessary that the Comprehensive Plan evolve as well; and ancillary growth is an area in the Comprehensive Plan that

should be examined carefully. **Commissioner Devos** explained that she continues to stop and think, and think again, and supports the protection of natural resources and environment and preservation of the quality of life. **Commissioner Devos** explained some of what is being offered with the Kitson & Partners plan may not do that, but does offer an opportunity for compromise. **Commissioner Devos** stated she would support the transmittal of the proposal today, but that does not mean she agrees with all the issues; that there are about 90 days to work through what is not clear and hopefully come up with something that is satisfying to all. **Commissioner D'Aprile** agreed there are issues to be resolved; does not agree that all 90,000 acres of Babcock Ranch should be preserved; and advised the County cannot raise taxes to cover the cost of purchasing the ranch in order to preserve it in its entirety. **Commissioner D'Aprile** stated staff found 36 items that are not acceptable, but it does not mean the program is not good, but he would not sign anything that commits the County to anything unless it is proven, in writing, and agreed to by staff. **Commissioner D'Aprile** pointed out the property will be sold because the Babcock family cannot afford to keep it any longer; he is not willing to give up 74,000 acres for life; the County cannot afford to purchase the land; if the plan is not approved it is questionable who would purchase the property and what would be done with it; and more costly in the future to prolong this. **Commissioner D'Aprile** advised he would support transmittal to the DCA under the condition that Mr. Kitson and his group, staff, and an advisory group made up of staff members and one of the Commissioners be part of the negotiations. **COMMISSIONER DEVOS MOVED TO TRANSMIT PETITION PA-05-09-61-LS TO THE DEPARTMENT OF COMMUNITY AFFAIRS BASED UPON THE FINDINGS AND ANALYSIS IN THE STAFF REPORT, ALONG WITH THE EVIDENCE PRESENTED AT TODAY'S MEETING, WITH THE ADVISORY THAT THE 36 ISSUES RAISED BY STAFF BE CONDITIONS FOR THE BASIS OF A DEVELOPER'S AGREEMENT BETWEEN CHARLOTTE COUNTY AND THE APPLICANT AND THAT THE LIST IS NOT ALL INCLUSIVE AND SECONDED BY COMMISSIONER DEVOS.** **Commissioner DeBoer** indicated much of what is being dealt with today is speculative because this is a process different than what has been done before and not all information is available yet. **Commissioner DeBoer** stated he shares some of staff concerns; that no model will be absolutely perfect; there is a lot yet to be learned and exposed; and more discussion to be had. **Commissioner Cummings** stated the Charlotte County Comprehensive Plan was a decade in

the making and a vision commitment to the people; and that this project is not a little change, but a complete reversal of direction. **Commissioner Cummings** shared some of his concerns and thoughts and stated he will not vote to support the motion. **Commissioner DeBoer** stated the Board has not abandoned the Comprehensive Plan or its vision; explained the vision was not to be like the East Coast and to have all the tools needed to avoid that happening; although this particular project may not be what was envisioned, it does fit into the type of concept to take some of the growth pressure off central county. **Commissioner DeBoer** said there has been discussion of a hole in the infrastructure needs and lack of green space in central-county, and suggested some portion of the impact fees go toward buying up platted lots because there is a need to have some way to fund taking pressure off central-county. **CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS DEVOS, DeBOER AND D'APRILE VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO." MOTION CARRIED: (4:1).** Attorney Cox requested clarification if the motion was to utilize the objectives and policies provided in his December 8, 2005 letter, and if not, which are to be transmitted to DCA. **Commissioner DeBoer** said what is to be transmitted is what was received from staff. **(DISCUSSION ENSUED REGARDING TERMINOLOGY OF WHAT IS TO BE TRANSMITTED TO DCA.)** **Commissioner DeBoer** suggested a recess to allow counsel to work out transmittal language.

RECESS 1:08 P.M. - 1:34 P.M.

Chairman Moore explained prior to the recess there had been debate on transmittal terminology, a motion was made and seconded, voted on and motion carried 4:1, and clarification requested, prompting discussion on terminology. In order to bring this back to a position for voting, **COMMISSIONER DEBOER MOVED FOR RECONSIDERATION OF THE MOTION AND SECONDED BY COMMISSIONER DEVOS. CHAIRMAN MOORE AND COMMISSIONERS DEVOS, DEBOER AND D'APRILE VOTED "YES", AND COMMISSIONER CUMMINGS VOTED "NO." MOTION CARRIED 4:1.** **Commissioner DeBoer** requested Ms. Roth read the language agreed upon. **Commissioner Devos** requested Ms. Roth also explain why this was necessary. Ms. Roth said the first issue is Policy 2.12.3 and the issue is that as currently worded, if the DRI or RSLP was not adopted within a two-year timeframe or mutually agreed upon extension, then the Board would be obligated to repeal the Overlay District, what was

agreed upon is the two-year timeframe was removed, and language was inserted to clarify if the Rural Land Stewardship Program or DRI is abandoned, Charlotte County will repeal the Overlay District. Ms. Roth indicated staff is concerned that even though the property, as a whole, is subject to the DRI process and no development could proceed unless there was a DRI or Predevelopment Agreement, there is nothing to prevent the developer from splitting the property, and by doing so perhaps avoid the DRI statutory requirements, so another sentence is being added that says "all properties subject to the BROD shall be considered aggregated for the purposes of DRI review so long as the BROD overlay exists." Ms. Roth advised that prevents the project from being split up and insures the DRI review will be done. **Chairman Moore** said he would accept comments from staff, Board members, Mr. Kitson or Attorney Cox. Ms. Roth said staff and the developer are agreeable to the change. Ms. Roth said the other matter is to Policy 2.23.7; at the present time the language says that if the development within the district were in excess of the prescribed limits it would be subject to the transfer of development units policies in the County's Comprehensive Plan and the Transfer of Development Units requirements of the Land Development Code or other applicable regulations. Ms. Roth indicated when Attorney Browne discussed the issue of taking the waiver off the table it was misunderstood that what was before you for transmittal today is an exemption from the TDU policies in the County Comprehensive Plan and County Land Development Code, and not in appropriate order. Ms. Roth stated the appropriate thing to do, if you wish to forward this to DCA, is reflect it is an exemption from the TDU policies in the Comprehensive Plan. Ms. Roth explained she wants to be certain the Board understands what is being proposed is a transmittal hearing for the Comprehensive Plan; all of these policy changes will go to DCA for review and an Objections, Recommendations and Comments (ORC) report, and sometime maybe as early as March, 2006, it will be back for adoption. Ms. Roth agreed with Attorney Cox that this is an important policy departure from the existing Comprehensive Plan, and if that is the Board's intent, it is important to do so at this transmittal phase in order to get discussion with the DCA. **(ADDITIONAL DISCUSSION ENSUED REGARDING THE MODIFICATION OF POLICY 2.23.7.)**

COMMISSIONER DEBOER MOVED AN AMENDMENT TO POLICY 2.12.3 TO READ "THE APPLICANT SHALL PREPARE AND SUBMIT THE NECESSARY REQUIREMENTS TO CREATE THE RLSP OR DRI NO LATER THAN JUNE 30, 2006 OR UPON A MUTUALLY AGREED TO EXTENSION. IF THE PERMANENT RLSP OR DRI IS ABANDONED THEN CHARLOTTE COUNTY SHALL REPEAL THE BROD AND REINSTATE THE FUTURE LAND USE DESIGNATIONS AND ZONING DISTRICTS THAT WERE IN EFFECT PRIOR TO THE ADOPTION OF THE BROD. ALL PROPERTIES SUBJECT TO THE BROD SHALL BE CONSIDERED AGGREGATED FOR THE PURPOSES OF DRI REVIEW SO LONG AS THE BROD OVERLAY EXISTS.", SECONDED BY COMMISSIONER DEVOS. CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS DEVOS, DEBOER, AND D'APRILE VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO". MOTION CARRIED 4:1.

COMMISSIONER DEBOER MOVED TO AMEND POLICY 2.23.7 TO READ " A MAJORITY OF THE BABCOCK RANCH IS PROPOSED TO BE SOLD TO THE STATE FOR CONSERVATION AND PRESERVATION PURPOSES UNDER THE RURAL LAND STEWARDSHIP PROGRAM. UNDER THIS PRESUMPTION, DEVELOPMENT WITHIN THE BROD IS LIMITED TO 17,870 DWELLING UNITS (TO INCLUDE THE 7,205 DWELLING UNITS ALLOWED UNDER CURRENT FLUM AND ZONING DESIGNATIONS), 4,825,000 SQUARE FEET OFFICE/RETAIL, 664,057 SQUARE FEET OF LIGHT INDUSTRIAL AND 150,000 SQUARE FEET OF GOVERNMENT/CIVIC USES. NO ADDITIONAL DENSITY CREDITS RESULTING FROM THE RLSP PROGRAM SHALL BE UTILIZED WITHIN THE BROD OR BABCOCK RANCH; DEVELOPMENT WITHIN THE BROD IS EXEMPT FROM ANY TRANSFER OF DEVELOPMENT RIGHTS POLICIES IN THIS COMPREHENSIVE PLAN AND WITH THE TRANSFER OF DEVELOPMENT UNITS REQUIREMENTS OF THE LAND DEVELOPMENT CODE.

Chairman Moore questioned the wording "under the Rural Lands Stewardship Program" and asked Ms. Roth if that mattered. Ms. Roth stated that was from old language and to clean it up a period should be inserted after "preservation purposes" and strike the language about Rural Land Stewardship Program. Attorney Cox stated in the parenthetical "to include the 7,205 dwelling units allowed under current FLUM" should also be deleted because it would be the entire ranch and he does not want to run into an issue with the State over including lands the State is buying. Ms. Roth stated that matter could be dealt with in the adoption process. Attorney Cox agreed.

COMMISSIONER DEBOER MOVED TO AMEND THE MOTION TO STRIKE "UNDER THE RURAL LANDS STEWARDSHIP PROGRAM" IN THE FIRST SENTENCE OF

POLICY 2.23.7, TO READ " A MAJORITY OF THE BABCOCK RANCH IS PROPOSED TO BE SOLD TO THE STATE FOR CONSERVATION AND PRESERVATION PURPOSES. UNDER THIS PRESUMPTION DEVELOPMENT WITHIN THE BROD IS LIMITED TO 17,870 DWELLING UNITS (TO INCLUDE THE 7,205 DWELLING UNITS ALLOWED UNDER CURRENT FLUM AND ZONING DESIGNATIONS), 4,825,000 SQUARE FEET OFFICE/RETAIL, 664,057 SQUARE FEET OF LIGHT INDUSTRIAL, AND 150,000 SQUARE FEET OF GOVERNMENT/CIVIC USES. NO ADDITIONAL DENSITY CREDITS RESULTING FROM THE RLSP PROGRAM SHALL BE UTILIZED WITHIN THE BROD OR BABCOCK RANCH; DEVELOPMENT WITHIN THE BROD IS EXEMPT FROM ANY TRANSFER OF DEVELOPMENT RIGHTS POLICIES IN THIS COMPREHENSIVE PLAN AND WITH THE TRANSFER OF DEVELOPMENT UNITS REQUIREMENTS OF THE LAND DEVELOPMENT CODE." , SECONDED BY COMMISSIONER DEVOS. CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS DEVOS, DEBOER, AND D'APRILE VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO". MOTION CARRIED 4:1.

COMMISSIONER DEBOER MOVED THAT PETITION PA-05-09-61-LS, AS AMENDED, BE TRANSMITTED TO DEPARTMENT OF COMMUNITY AFFAIRS BASED UPON THE FINDINGS AND ANALYSIS CONTAINED IN THE STAFF REPORT ALONG WITH EVIDENCE PRESENTED AT TODAY'S HEARING WITH THE ADVISORY OF THE 36 ISSUES RAISED TODAY, WHICH ARE NOT ALL INCLUSIVE, THAT THOSE HAVE BEEN INCLUDED BY STAFF AS CONDITIONS AND SHALL BE A BASIS FOR A DEVELOPER'S AGREEMENT BETWEEN THE COUNTY AND THE APPLICANT, SECONDED BY COMMISSIONER DEVOS. CALL ON THE MOTION: CHAIRMAN MOORE AND COMMISSIONERS DEVOS, DEBOER, AND D'APRILE VOTED "YES" AND COMMISSIONER CUMMINGS VOTED "NO". MOTION CARRIED 4:1.

Commissioner Cummings said in response to Commissioner DeBoer's rebut on the Comprehensive Plan, the core strategy of the Comprehensive Plan was never to move development out of Port Charlotte; that it is primarily an Urban Service Area strategy with a primary strategy of concentrating development in the Infill areas which are the largest ones and located in central-county. Commissioner DeBoer stated he would agree to disagree. Chairman Moore indicated there are issues that must still be resolved as early as possible within the next 90 days. Chairman Moore said he would like Board approval to form a negotiating team made up of himself, the County Administrator, County Attorney, Ray Sandrock, Budget Officer, and Michael Konefal, Director, Community Development, to meet at times to be determined, to work out the 36, but not limited to, issues.

Chairman Moore stated this is a quantity of people that can be effective and is in the best interest of the County; that the intent is to come up with documents so when it comes the day for the final vote all parties will know exactly what is being done, who is liable and responsible for what, and hopefully solve the problems that are out there at this moment and solvable. **Commissioner Devos** pointed out her concerns about infrastructure and roads, and requested that Thomas E. O'Kane, Director of Public Works, serve on the negotiating committee as well. **Chairman Moore** agreed.

MEETING ADJOURNED: 1:55 P.M.

Thomas G. Moore
Chairman

ATTEST:

**BARBARA T. SCOTT, CLERK
OF THE CIRCUIT COURT AND
EX-OFFICIO TO THE BOARD
OF COUNTY COMMISSIONERS**

By: _____
Deputy Clerk
/gm