

**CHARLOTTE COUNTY PLANNING AND ZONING BOARD**  
**Administration Center, 18500 Murdock Circle, Room 119,**  
**Port Charlotte, Florida**  
**Minutes of Regular Meeting**  
**May 12, 2014 @ 1:30 p.m.**

**Call to Order**

**Chair Hess** called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

**Roll Call**

**PRESENT**

Paula Hess  
Michael Gravesen  
Ken Chandler  
Stephen Vieira  
Paul Bigness

**ABSENT**

**ATTENDING**

Joshua Moye, Assistant County Attorney  
Gayle Moore, Recording Secretary

**APPROVAL OF MINUTES**

The minutes of April 14, 2014 were approved as circulated.

**ANNOUNCEMENTS**

**Chair Hess** indicated that, due to the number of speakers present today, there will be a five minute limit for each speaker. She also mentioned that there had been an error in the ad published this morning regarding a meeting to be held on May 27<sup>th</sup>; that meeting is of the Board of County Commissioners, not of the Planning and Zoning Board as indicated in the published ad. A corrected ad will be published.

PETITIONS

**PA-14-04-06-LS**

**Legislative**

**Countywide**

Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Economic Opportunity (DEO) for review and comments; the request is to amend the Future Land Use (FLU) Element, Natural Resources (ENV) Element, Coastal Planning (CST) Element, FLU Appendix I: Land Use Guide and FLU Appendix III, Definitions; Petition No. PA-14-04-06-LS; Applicant: Charlotte County Board of County Commissioners; providing an effective date.

**Staff Presentation**

**Ty Harris, Director, Community Development Department**, offered opening comments on the matter presented today, noting that the changes being offered are based on direction received from the Board of County Commissioners to remove the regulatory elements which would more commonly be seen in land development regulations. He gave a brief outline of the changes which are being proposed; for instance, if the state or federal government already has a rule or regulation or policy in place, the County will not duplicate that same thing or have anything contrary to the state or federal code. He also briefly mentioned those areas of the Comprehensive Plan which are not being changed, such as the TDU ordinance. **Mr. Harris** also spoke to the issue of comments received so far and public commentary appearing in the newspaper, and the staff memo responsive to that material, which was included in the information packet for this matter. He then invited questions from the Board.

**Chair Hess** asked Mr. Harris to clear up a couple of items that appear in the various communications from the public and seem based on misunderstandings: that there would be a reduction in protection of wetlands and increased density in CHHA. **Mr. Harris** spoke to the issue of wetlands protection first, noting that wetland delineations are made by the state and federal government; he said he had a problem with the 200 foot buffer required for industrial that doesn't take into account the nature of the wetlands or the use of the property and suggested that would be a matter for future discussion. For now, he said, federal rules regulate the buffering; this is in the nature of a land development regulation and not something that belongs in a Comp Plan. As for the second question, which he believed speaks to the ability to transfer density, he noted that there is a TDU ordinance in place, and that is not being altered. He did emphasize that the ordinance is a regulatory document and, again, not something the details of which belongs in the Comp Plan; the Comp Plan directs that there shall be a TDU ordinance, that is all.

**Chair Hess** said that, based on his comments, she understood that the protection of wetlands in the LDRs has not changed; **Mr. Harris** noted that the LDRs are being updated, and that members of the public attending those roundtables are more agreeable talking about changes to the Code as opposed to the Comp Plan. **Chair Hess** also asked for confirmation that the density limitations remained the same; **Mr. Harris** confirmed that was not being changed. She asked if there were changes in the policy regarding that, and he responded that there were none, to his knowledge, though some of the regulatory language was being put into the Land Development Code instead. He noted that the Watershed Overlay was not being changed, nor were the environmental policies directing that wetlands be protected.

**Chair Hess** further asked the change in language where "prohibit" was stricken and replaced by "discouraged", asking him to briefly explain the property rights issue that was involved there. **Mr. Harris** described the regulatory takings claim that could be brought against the County for having contradictory language between the Code and the Plan. The better approach, he said, was to funnel people into the rezoning or entitlement process so that each project could be judged based on whether it meets the criteria for allowing it. In this approach, people have the opportunity to make their case for allowing the project, as opposed to having "prohibit" language in the Plan which forecloses that option.

**Chair Hess** asked if others on the Board had questions; **Mr. Bigness** asked if the department had consulted with the State of Florida about the proposed changes and asked what the response was; **Mr. Harris** responded that he had contacted the state and feels that they approve of the proposed changes. He then talked about language concerning "urban sprawl" and how this concept is defined at the state level and how the state definition might change, leaving us with some language out of sync with the state regulations. In the end, this proposed amendment sticks with stronger language ("prohibit" instead of the state's "discourage"). He also made the case that removing the phrase throughout the document is not the same as deleting it; it only needs to be mentioned once. **Chair Hess** sought confirmation that the policies are not lessened, but simply have incorporated the Florida statutory language, and **Mr. Harris** confirmed this.

**Mr. Bigness** commented that this seems to be clearing up issues between Comp Plan and LDRs; **Mr. Harris** agreed, noting that this is about Home Rule. He stated that if you want the state to dictate your rules, then put all your regulatory language in your Comp Plan; otherwise, put that language in the Land Development Regulations and have local control. **Mr. Bigness** also asked if anything had changed for Manasota Key; **Mr. Harris** responded that there were no changes that would impact the work already done on the Manasota Key regulations. Discussion continued briefly concerning the TDU ordinance and how it had not been changed.

**Mr. Vieira** asked how will the habitat conservation plan might be affected by these changes; **Mr. Harris** labeled this a 'head scratcher' and said he was uncertain about a comment attempting to tie residential density to scrub jay habitat; he had responded to that commentor trying to get further information. He noted that this is a federal program with its own rules and said he couldn't see how this would be affected by local density issues.

**Mr. Gravesen** asked about the percentage of land in the county that is owned by state, federal and local government. **Mr. Harris** responded that it's over 30%, perhaps approaching 40%.

**Chair Hess** then invited members of the public to come forward and being asking their questions.

### **Public Input**

**Ms. Susan Kovacs**, described herself as a resident of the area for 30 years, and said she felt this was a circus and was in the control of the Tea Party, and it shouldn't happen. She also had some harsh words for the Commission. She referenced the Harborview development which is now Benderson and said that she doesn't trust the Board or the Commission. There was a slight interruption in her speech, and then she continued to comment on the Tea Party; she also raised some issues concerning her taxes.

**Ms. Gene Gage**, resident of Charlotte County, wanted to discuss the Rural Community Mixed use; she said she thought the protections were to protect property from encroachment but reading the Plan now, she no longer thinks it does that. She read from a statement, focusing on the reasons why people live out in this area: low density, privacy, quiet, rural lifestyle and the chance to own livestock. Ms. Gage asked that if the County is truly sincere about keeping the character and landscape of the agricultural areas, then the best thing would be to just leave them as what they are intended to be. Chair Hess observed that the goal is still to protect and support agricultural uses.

**Ms. Percy Angelo**, resident of Cape Haze, representing the Friends of Cape Haze and Cape Haze Property Owners, handed out additional information to the Secretary and the Board members, and then addressed the Board. First, she stated, there is no data and analysis supporting these changes as required by the relevant Florida statutes; the only data and analysis dates back to the 2010 adoption of SmartCharlotte 2050, and is inconsistent with the proposed changes. She challenged the staff position that they have only eliminated portions of the Plan which are not required by state law or are redundant with state or federal law; she noted that the second document in her handout enumerated the requirements in the Florida Statutes regarding Comprehensive Plans and demonstrated that staff is cutting mandatory sections of the Plan. She briefly discussed a few of these, including destruction of wetlands without replacement taking place within Charlotte County; mitigation could take place in other counties, so there would be an on-going loss of wetlands in this County. She also challenged relying on the delineation of wetlands (deciding where they are, as the federal and state authorities do) as opposed to categorization, which decides which wetlands are valuable and would take place at the local level.

**Ms. Angelo** also commented that the proposed changes would apparently allow an increase of base density without using the Transfer of Density rules. She singled out a loss of language requiring that the TDU program be used for all plan amendments that propose to increase base density; she noted that county staff at roundtables didn't recognize this to be the case, although members of the developer community present recognized that it would. **Ms. Angelo** stated that standards for how and where to use TDUs are being removed, including those standards that say density should not go to barrier islands or Watershed Overlay districts. Also missing is the "no net

density increase" language pertaining to the Coastal High Hazard Area (CHHA); she suggested this could strongly impact Placida Rd. evacuation time. Speaking about her past experience with biofuel plants and what they require in terms of water and what the risks of spills are; she feels that this industry is poorly understood in terms of the Comp Plan amendment proposals. Ms. Angelo closed with comments about tanks of hazardous materials in the watershed, stating that state and federal environmental laws do not cover this. She referred again to the need for data and analysis; this is what the statute requires and without it these impacts can't be properly understood. **Ms. Angelo** also offered to speak with Mr. Vieira separately regarding the habitat conservation plan.

**Mr. Richard Flint**, long-time resident of the County, on behalf of Friends of Cape Haze, stated that he has been an attorney and business owner outside FLA for many years also. **Mr. Flint** gave his business credentials, saying "I am the kind of person you should encourage to create business here." However, he stated, people don't get a fair shot down here dealing with the County, as it is controlled by a small group. When the Comp Plan was adopted, litigation was necessary to ensure protection of landowners was there; these have been taken out. **Mr. Flint** said it was nearly impossible to talk about such extensive changes; it should be done issue by issue, not in bulk in a 221 page document. He further stated that the broad assurances given by staff are not accurate, noting that he speaks here as an attorney. He noted that the Comp Plan is harder to change than the regulations; so taking material out of the Plan and relying on it being in the Code just makes those things easier to change. He stated that this amendment is not for people who care about the ecology of the area and said that he would be happy to sit with staff and discuss. He also incorporated Ms. Angelo's comments into his own.

**Ms. Andrea Story** resident of Washington Loop, spoke on behalf of the homeowners of that area, where the neighbors are dirt mines. Regarding FLU Policy 2.1.9, **Ms. Story** said that a lot has been deleted; she said she also carefully read Mr. Harris's memo which explains that this material was duplicative because it will be in Excavation ordinance. She stated that she is not comfortable with his assertion. She also referenced Mr. Flint's comments, and said she felt concern over the "chicken and egg" nature of the proposal, which has been to first remove protective language from the Plan when the Plan is supposed to provide the guidance for the Code. **Chair Hess** responded, supporting the change and stating that the guidelines will be preserved. **Ms. Story** responded that if the Chair lived in our neighborhood, would she feel secure? The Excavation Code doesn't exist yet, so when these protections come out of Comp Plan there's no protection at all.

**Ms. Jean Finks**, President of League of Women Voters in Charlotte County, a practicing attorney, and member of the Rules Committee for the Florida bar. Having done this same sort of task herself, she felt that the first task is to ensure your regulations are mature before you cut the Comp Plan. She also said that there was insufficient 'sunshine' in the process so far and that she didn't feel that staff guidance to the Board was good in this matter. **Chair Hess** commented in response to Ms. Finks, that the Land Development Regulations had been up for revision first, but inconsistencies made it necessary to change the schedule and address the Comp Plan first. **Ms. Finks** restated her point, suggesting that both the Code and the Plan be completed and presented together in order to reassure residents that all the necessary parts were still present.

**Mr. Huger Havlik** representing the Sierra Club, voiced his understanding that the state mandates the Comp Plan; he noted that the Smart Charlotte 2050 took three years of workshops and much input from citizens and planning professionals, and that work won a national award for public outreach. It has been in place for only three years and now a top-down revision is going forward with just two poorly-publicized ill-attended meetings, showing little respect for the hard work of the

citizens. **Mr. Havlik** noted that the proposed rewrite doesn't comply with the framework document of the 2050 Plan, and he stated that the Sierra Club is not against development, but its bad effects.

**Ms. Tess Canja** a long-time resident, stated that she has received numerous emails about the proposed changes, generally concerning the important parts which have been stricken, including the fact that public access to waterbodies has been decreased, and references to the County's interests in controlling pollution have been deleted. Additionally, inactive mines can start up again within the buffer that formerly prohibited them. She stated that she found these things alarming; **Chair Hess** asked where this information came from and **Ms. Canja** referenced an email from the Sierra Club.

**Ms. Joan Fischer**, stated that she had not planned to speak, but after listening, changed her mind. She said the Board was not receiving complete and correct information from county staff; that this proposed revision is just in pursuit of a specific outcome, and that the Commissioners have a plan which they use their Boards to implement. **Ms. Fischer** singled out the Deputy County Administrator as someone who does not live in Charlotte County yet tells County residents how to live. **Ms. Fischer** said that the one-cent sales tax meetings were farcical, and she suggested that Board members should be careful of following staff's lead.

**Mr. Marv Medintz**, President of the Cape Haze Property Owners and member of other local groups, stated that there had been a couple of canards today, including the distinction being made between the comp plan and regulations. **Mr. Medintz** noted he has a background in drafting of statutes, laws, regulations and ordinances, and he commented that saying there is a bright line where something is regulation only is an invention. He contended that staff has stripped away the layer of protection, and that when the Comp Plan is gone, there is only the regulation which can be changed with very little notice and only five minutes before the commission. These protections should remain in the Plan. He also repeated an earlier contention, that this process must be supported by data and analysis, saying that there's no data and only meager analysis.

**Ms. Renee Milioto**, resident of the Deep Creek area, noted that the gentleman from the Sierra Club took some of her lines, as she intended to note that the creation of Smart Charlotte 2050 took many man hours of the public's time, has not been in place very long, and should be left alone. She said that she used to live in New Hampshire, where she experienced many of these sorts of meetings. She notes that here, there is a continuing reference to the redundancy between the Plan and the state's regulations; however, from her experience in other municipalities, she suggests you can't repeat the regulations too often and in fact *should* have them repeated.

**Ms. Betsy McCallum**, also spoke about the great deal of hard work by citizens in creating Smart Charlotte 2050; now, apparently, developers feel it is too restrictive and are working to get it changed. These amendments will lower standards throughout the County, and diminish environmental protections. **Ms. McCallum** referenced the proposed Lemon Bay Cove development on Sandpiper / Manasota Key which the state has OK'd; she stated that another layer of protection regarding such projects would be good. She also made some comments with regard to property rights, and concessions granted that benefit only the property owner with no benefit for the future of the area or to the economy. She requested that the Board please slow this process and allow for reasonable discussion before these amendments are passed.

**Ms. Julianne Thomas**, representing the Conservancy of Southwest Florida, related an experience regarding the Comp Plan online, at which point she realized that the TDU policies online were different than the TDU policies in the strikethrough/underline version that the roundtables been working with; she said she has concerns about similar inconsistencies in other sections up for revision. She characterized this as a problem, stating that the group should have been working on

the adopted Future Land Use Element language and she doesn't think they were. Further discussion ensued on this matter; **Chair Hess** said the language had been updated and that Ms. Thomas must have seen it before the update. **Mr. Harris** clarified that the version available in all the roundtables has been the correct version; **Ms. Shao** explained that Ms. Thomas was seeing the results of interim staff changes which **Mr. Cullinan, Zoning Official**, noted were accepted and then struck-through instead of being rejected, thus producing a sort of technical error in presentation.

**Ms. Thomas** continued, noting that striking out "smart growth" and replacing it with "balanced growth" but the definition provided doesn't give enough guidance, establishing "meaningful and predictable standards" as required by the state. The document makes references to the "principles of balanced growth" but, **Ms. Thomas** said, what are these principles, where can they be found? **Chair Hess** said that Mr. Harris would be asked about that.

**Ms. Thomas** continued, noting that the same question arises with regard to the change from sustainability to viability, which are not the same thing; however, she said, she believes the County has not been approving developments that were not considered viable, so it is unclear what the language change is meant to reflect in terms of a change in approach. With regard to the HCP report, **Ms. Thomas** noted that it incorporates the framework and methodology from the 2010 EAR which is based on smart growth and sustainability; if you take away the framework the HCP relies on, it creates a problem.

**Mr. Leonard Guckenheimer** said that he was new to the process; he googled Smart Charlotte 2050 and saw the existing plan instead of the proposed plan. **Chair Hess** explained he was looking at the existing Plan which is what is being revised; the revisions are shown separately online. **Mr. Guckenheimer** made suggestions for improving the County website, and further discussion ensued on this matter. **Mr. Guckenheimer** also spoke about Murdock Village, suggesting that it would be good to figure out something to do with it. **Chair Hess** said that the fate of Murdock Village was one of the many factors driving the Plan revisions, with the idea being that reductions in regulations would help jump start the development of that area, but that it was a fine line to walk, both attracting development and continuing to protect the environment.

**Ms. Holly Kovacs** suggested that the Plan online should have had an abstract or summary.

**Mr. Andy Dodd** opened his remarks with compliments for the staff on their revisions. He noted that the Board has taken direction from citizens at the Assembly where the question was asked whether the County should be more restrictive than the state or other agencies when it comes to environmental regulations, or any regulations, and people agreed it should not be. **Mr. Dodd** also spoke as the Chair of ANRAC, which took a position on the revisions at their most recent meeting. He works with people who feel their property rights have been eroded by Smart Charlotte 2050; one example is the surface water protection area which was originally 11,000 acres became 90,000+ acres with numerous 'shall nots' imposed on the property. He is very much in favor of staff having removed these restrictions and said he felt the overlays which still remain but with criteria that is now 'more realistic' will provide less detrimental impact on east county property owners. **Mr. Dodd** said that he encouraged a recommendation of approval for the revisions.

**Mr. Jim Cooper**, long time resident and Chair of the Lemon Bay Conservancy which works to protect lands (he gave as an example the Wildflower Preserve) said that state and federal regulations do not protect everything. He said he felt this process is moving too fast, and the public has not been included as they should be; there have not been enough meetings, the two that took place were held too close together, and this eliminates a lot of people from participating.

**Mr. Cooper** said he felt there was an inherent flaw in trying to over-simplify things; he provided as an example the Lemon Bay Cove project. The state has said that mitigation outside the County is sufficient. However, the project would destroy sea grasses and fish nurseries, and replacing these resources in Lee County doesn't help Charlotte County at all

**Mr. Cooper** also indicated he was concerned about the people driving these changes. These are not mostly the people owning homes and local business: it seems to be the developers, engineers, attorneys. Referencing Lorah Steiner's article in paper, **Mr. Cooper** echoed her proposition that this special place will be more valuable if we protect our resources. "Sustainable" is the appropriate word, and is used by the CHNEP; to strike that word is foolish -- there is no negative to this concept. He also pointed out that snowbirds are gone; these are the people who have the most economic impact on the area, and they are not here to make their opinions heard.

**Ms. Geri Waksler**, attorney and County resident, objected to the characterization that changes to the Plan are being driving by business people, noting that she is a 30-year resident of the County, a business owner and employer and her husband is an employer also. She stated that the changes being made are based on direction from the Commission; their concern is about the duplication of regulations. She also objected to the characterization of the changes as causing the loss of all the wetlands; she stated that state law prohibits local government from making any regulation that would hamper or prohibit the use of wetland mitigation banks. Since we do not have any wetland mitigation banks in Charlotte County, there couldn't be a law or a policy in the Comp Plan that would keep all mitigation in Charlotte County. **Ms. Waksler** also pointed out that the need was not to keep isolated low-quality wetlands that the County has an interest in, it is high-functioning, high-quality wetland systems we want. She also addressed the implication that we're taking all this language out of the Comp Plan, agreeing with the premise that when you strip it all away all that's left is regulation -- that's correct, that's how it should be. The Comp Plan is a visioning document which is implemented by regulations. For example, the TDU ordinance: This was never mentioned in the prior Comp Plan but it worked fine when it was just an ordinance; in fact, she noted, all the transfers that took place, took place under the prior Comp Plan when TDUs were not mentioned in the document. **Ms. Waksler** noted that the goal was to keep regulation local, rather than be subject to the state's involvement. She recommended approval.

**Mr. Ian Vincent** said that Ms. Waksler had covered most of his points already, and he called out several of her points for specific agreement, in particular the idea that it would be good to require all mitigation to be done within the County, which would negatively impact the small property owner. He also spoke regarding the Habitat Conservation Plan, which he has worked closely with; he did not see that it would be impacted by any of the proposed changes to the Comp Plan.

**Mr. Adam Cummings** long-time resident and former County Commission, spoke as a citizen. He noted that he had made land use decisions for 16 years and saw the consequences. Based on this experience, he said that his analysis of the changes are closer to Percy Angelo's than any of the others. But setting that aside, he said, the matter was to go forward as a whole, and the question was to recommend or not. His approach was simply to go back to the statement by Mr. Harris of the purpose: To remove regulatory items (which could be considered as housekeeping) and to have nothing different from state or federal regulations. **Mr. Cummings** said that he and Mr. Harris had gone round and round on that, more than once -- another way to state that is to be in no way exceeding the bare state minimum requirements. That is fundamentally different that implementing a community vision. At the time the Comp Plan was adopted, we (including the Board) were very proud that this was a community Plan, not a Board of County Commissioners's Plan. The changes made were small, incremental changes, not a fundamental change in the mission and purpose of the Plan. This is a shift from a community vision three yrs in the making to

relying on bare minimum state regulations, having nothing whatever to do with the citizen vision. This fast track process doesn't serve the citizens of this community; the process is fundamentally flawed and you should recommend denial.

**Mr. Todd Rebol**, native of the area and business owner, spoke next. Responding to Mr. Cummings, regarding meeting state minimums: We can do whatever we want in the LDRs; they have to meet Comp Plan but can go beyond it also. Any time you have to send proposed change to the state, there is the risk they won't approve the changes. He also agreed the proposed revisions should be recommended for approval. He also complimented the staff for their hard work.

**Mr. Robert H. Berntsson** spoke next, stating that he supported the direction given by the Board to County staff. He felt that the proposed revisions to the Land Development Regulations would have created a non-competitive situation for the community. The Commissioners also didn't like that direction, and asked for fundamental changes in the Comp Plan in order to have local control. He strongly urged a recommendation of approval.

No further citizens wishing to speak, **Chair Hess** offered Ms. Angelo her time to discuss the HCP. **Ms. Angelo** commented that the Scrub Jay Plan exists in a number of parts, all of which specifically rely on the Comp Plan; various parts of the Plan for which changes are proposed are implicated in the scrub jay plan. She mentioned specifically: taking out a number of protections in the Natural Resource Element; also removing instructions in the current Plan about extending the Urban Service Area (USA) and removing the standards for extending the USA so that we can no longer say exactly where we will not have urban development and what is being preserved for rural development. Therefore, the assumptions underlying our Plan and the scrub jay plan are no longer valid and there's no data and analysis to say what changes those will be.

Also, **Ms. Angelo** mentioned the changes in the section about density; she asked whether all density increases will continue to go through the TDU process or whether they might be made some other way. Changes in this process would implicate the assumptions made under the scrub jay plan. **Ms. Angelo** also remarked on comments made by previous speakers, that during the LDR revision process it was determined that the proposals were too stringent, and therefore the Comp Plan had to be changed. She asserted this was "upside down" from the way the process should work: the LDRs are meant to implement to Comp Plan, not to drive its content. The scrub jay plan does not rely on the LDRs, it relies on the Comp Plan. **Ms. Angelo** remarked that she had also heard people say that the Comp Plan was too stringent.

**Chair Hess** thanked her for her input, and read a statement which said revisions to the Plan do not expand the Urban Service Area. **Ms. Angelo** responded that the statement was incorrect, and that revisions to the Plan remove the restriction on expanding the Urban Service Area and remove all the standards for doing so. **Chair Hess**, noting that there seemed to be a disagreement, but this hearing is a legislative action which concerns matters that are reasonably debatable, and this is one of those points of debate.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Vieira** with a unanimous vote.

### **Discussion**

**Chair Hess** stated she would ask her questions of Mr. Harris, then there would be a break, after which the Board would have their discussion. The first question she posed to Mr. Harris concerned the comment that there was no data and analysis to support the proposed revisions. **Mr. Harris** responded that staff has the studies that were done for 2050 Plan to rely on. The issue of the

Urban Service boundary, he said that if you look at the data from the 2050 Renaissance study, which looked at all the land uses (and you heard the statement that we density for another 100 years) but is it located in the appropriate areas of the county? The areas where we want to drive development may change over an extended time horizon.

The Renaissance study talked about industrial uses which it found to be insufficient within the Urban Service Area (USA). **Mr. Harris** stated that there is nothing in plan that would change the USA now; then flip back to the criteria for urban sprawl, when you start talking about significant development outside of the USA, then you would apply those criteria in F.S. 163 to determine whether or not that development met the criteria for urban sprawl, and if so, then most likely you would not recommend it for approval. So getting back to the Renaissance study, it may say that there is enough density, but it is not in the right places, so as far as our data and analysis, we can rely on that study for the proposed changes we are making. Additionally, there is a map system showing with the TDUs where you can and can't transfer density, who can supply it and who can't – and none of that is changing, it remains in the TDU ordinance.

**Mr. Harris** said that he wanted to talk about something else: These are things that aren't in the Comp Plan but you should understand that these are areas we're looking at when we talk about water resources and protecting the environment. Looking at the 2013-14 Planning Goals for the Board of County Commissioners, they came up with about 60, of which ten deal with natural resources or protection of water resources; the first goal is to develop water resources via interconnects, and the next is equitable solution to water authority rehab of infrastructure, etc. The point is, there is nothing is in the Comp Plan and LDRs but we still do them. **Mr. Harris** then turned the podium over the Ms. Shao to answer further questions on language retaining protections in the Plan.

**Chair Hess** said she had one more question for him to answer: Why use the term "viability" instead of "sustainability". **Mr. Harris** said that to some factions "sustainability" and "smart growth" have a negative connotation (they invoke negative planning concepts, takings of private property rights, etc.) so although it wasn't driven by any group in particular, we don't want the discussion to be derailed over mere terms. So the idea was to change the words so we can have essentially the same thing without the controversy. He noted that they had consulted with DEO and found they don't have a concern about it, so while we could put them back in, we would still have to get over the connotations of what those terms mean to certain people.

**Ms. Shao** had four things to cover regarding continuing protections:

- The TDU policy. The revisions keep all the intent language and special exceptions for TDUs (in the policy, there is a reference to Babcock which already got one and is exempt from TDU ordinance).
- The various neighborhoods set forth in the 2050 Plan and how density can be created by the County in the Revitalizing Neighborhood when a Revitalization Plan is created.
- Keeping the sending zones and the criteria for the receiving zones .
- No TDUs can go into the coastal areas, and this is based on FLU Policy 2.4.6.

Another question concerns the Earthmoving Ordinance: Between the time something comes out of Comp Plan and the time it appears in an ordinance, is it in limbo? **Mr. Harris** responded: No, and pointed out that the existing ordinance is in place. The proposed revisions have been reviewed by ANRAC and the process is probably within a short time of being completed.

**Chair Hess** turned next to the issue of taking implementation out of plan and limiting it to the LDRs; that is a philosophical disagreement and a debatable item. Another question was: Why

does comp plan change first, and then the implementation in the LDRs? **Mr. Harris** referred to F.S. 163 which requires that the land development code implement the Comp Plan; so the Plan must be changed first.

Finally, **Chair Hess** asked for confirmation that Scrub Jay protections have not been removed, which **Mr. Harris** confirmed, and also expressed willingness to double-check all that language.

**Chair Hess** had one last question: Whether the "free market concept" will be included in plan? **Ms. Shao** indicated it would not be included.

**The Chair** called for any other questions. **Mr. Vieira** asked for clarification on the timeline for public review of the revisions, specifically how long the document was online before the first roundtable and was there ample notice of that event. **Mr. Harris** stated that there is no requirement under statute to have any public roundtables, but we did because of the value of public participation. There was one roundtable on Apr. 10<sup>th</sup>, and one all-day event on April 23<sup>rd</sup>. In the agenda item packet, we tried to ensure to include any comments from the public received right up until our deadline for posting it online. **Mr. Vieira** asked how long before those roundtables was it advertised online? **Mr. Harris** noted, again, that there's no criteria but thought the event was noticed a week before the first one.

A short recess was called at 3:27 pm and the meeting reconvened at 3:32 pm.

**Chair Hess** first thanked the assembled for showing up and giving their input, noting that we all want a beautiful and prosperous county, but we have a difference of opinion on achieving it. Comments from the Board members began with her own comments:

**Chair Hess** said that she had been here for the first Comp Plan, and she feels it is an expression of the community's preference for guiding growth in the long-term, for preserving beauty without discouraging economic opportunity, which she said the term "balanced" amply expresses. She said she felt the proposed changes were only in removing the regulations, not in the vision; she agreed that it was necessary to take the implementation out of plan, and change to avoid future property rights litigation. **The Chair** indicated that the Plan should change with the times; we shouldn't have to go to the state to effect minor changes. There is also the need to be competitive in these difficult economic times. As to the disagreements expressed as to what the appropriate content for the Comp Plan should be, **Chair Hess** indicated she feels utmost confidence in the director and he is abundantly qualified to make that judgment. Sending it to State for review & comment is a double-check on the revisions. Therefore, her recommendation is to transmit.

**Mr. Gravesen** said that he agreed with the Chair's comments. He noted that he was also here when first plan was created. He noted that the Board had not been involved in the crafting of Smart Charlotte 2050 or the version that preceded it, but had merely had the finished product brought before them for review and recommendation. As far as the issued of mitigation out of the county, **Mr. Gravesen** referenced an out-of-state property he was involved in which was sold to a wetlands trust which sells mitigation credits, so he is aware that you can't always mitigate within your county and does not see that as a problem. With regard to whether there has been enough time for review, **Mr. Gravesen** commented that if that case is successfully made to the BCC, they can send it back for further review and process. He also stated that the Comp Plan is not a controlling document in a vacuum, that there are many other laws, regulations and the like which impact our activities. He also noted that the environment is resilient; as an example, he noted trees damaged in Charley which blew down in the storm, and has regrown from the stump. Finally, he noted that 30-40% of the county is owned by federal, state, and county agencies, which he

feels is sufficient; the wildlife is all around where he lives, and they appear to like development. He agreed with the Chair's recommendation to transmit.

**Mr. Vieira** said that initially he had some concerns about the timeline; but he agrees with Mr. Gravesen, that the BCC can send it back if they feel the same. Otherwise, his concern is the scrub jays issue and the communities like Harbour Heights and Deep Creek which are severely impacted by their presence and cannot developed because of them. **Mr Vieira** said he agreed with the recommendation to transmit.

**Mr. Bigness** first recognized the Chair's comments which he considered very eloquent. With regard to the impacts from development, he stated that he talks to retirees who move here and feels that there is no option to shut out other retirees from the same option. We should keep an eye on the environment, but remember that there are strong regulations already in place.

**Mr. Chandler** stated that he agreed with the other comments, and also complimented the work that the Board does in general, saying that's why he volunteered to participate in the process. The thing he mentioned as being disturbing was the lack of young people present and participating. As for the County, **Mr. Chandler** noted that there's never going to be complete agreement on County actions, but public participation is vital; the taxpayer / citizens are the stakeholders. He also stated that the Comp Plan is beneficial, and the Board is doing everything possible to make it work; it's a thankless task, especially in this economy.

**Recommendation**

**Mr. Gravesen** moved that application PA-14-04-06-LS be sent to the Board of County Commissioners with a recommendation for transmittal to the Department of Economic Opportunity for review and comment, based on the findings and analysis in the staff report dated May 2, 2014, along with the evidence presented at today's meeting, second by **Mr. Bigness** and carried by a unanimous vote.

There being no further business to come before the Board, the meeting was adjourned at 3:51 p.m.