

FLOOD HAZARD AREA/WETLAND WORKING GROUP – MEETING 5

AUGUST 16, 2010

These minutes reflect a semi-verbatim, semi-summary, representation of the remarks made by the participants.

The meeting was called to order by the Facilitator, Tim Franta, at 3:00 p.m.

Staff members present were Ernie Brown, Director, Office of Natural Resources Management; Virginia Barker, Office of Natural Resources Management; Darcie McGee, Office of Natural Resources Management; Amanda Elmore, Office of Natural Resources Management; Robbyn Spratt, Office of Natural Resources Management; Rich Szpyrka, Public Works Development Review & Inspection; and Candy Hanselman, Planning & Development Department.

Working group members present were Bob Massarelli, District I; Mary Hillberg, District II; Don Simms, District III; Jon Shepherd, District IV; Billy Kempfer, District V; Bob Shaw; American Society of Civil Engineers; Drew Powshok, local Florida Surveying & Mapping Society; Mike Moehle, Home Builders & Contractor's Association; Tom Schuller, Brevard County Farm Bureau; Jim Williams, Florida Floodplain Manager's Association; Lisa Frazier, American Planning Association; Mary Sphar, Turtle Coast Sierra Club; Beth McMillen, Marine Resources Council; Sandra Clinger, Partnership for a Sustainable Future; and Bob Day, Brevard Nature Alliance.

The group approved the minutes from the meeting on August 2, 2010.

Tim Franta – We are going to work on the three worst areas of the floodplain, and then proceed on the whole thing. We are going to take public comment first.

Glen Storch – I was listening a lot to what ya'll were talking about last time regarding clustering, and how to create incentives for clustering. And I had some ideas at that time and, unfortunately, ya'll were trying to move things along quickly. And I understand the facilitation is to get things done while you can get them done. But the bottom line is, unless you can find some incentive to get people to cluster, they're not going to do it. I've seen that too many times. And the incentive that I have suggested was to look at two things. One, those areas that you actually cluster into, that's the area you should be able to use. And so if, for instance, you have a 1,000-acre tract and you cluster everything into 250 acres, if there's an area of floodplain within that 250 acres, you allow that to be used, consistent with the zoning and the Comp Plan designation. But you require that there has to be full compensating storage for that area. So there's no exemptions, no one-third exemptions, or anything else. The same thing with wetlands. If you are requiring, or encouraging, clustering into a small area, and there's some pocket wetlands in there, you allow those pocket wetlands to be utilized, potentially, consistent with St. Johns, and Army Corps, and DEP regulations, like everybody else in this state. But, at the same time, you make certain that everything else, including the uplands of the surrounding areas, the 75 percent, are kept in a conservation area. So, again, it's an incentive program. It's a mechanism to try and get people to respond. What we're doing is encouraging people to do the right thing. And that's the sort of thing I think that will work. I've been doing this for quite some time. But that's the sort of thing that I think will work, if you'd like it to. It encourages. It doesn't require, but it does encourage.

Tim Franta – An email was sent to all of you, asking you to pick three unacceptable sections, if you had some.

Group members identified sections that were problems for them, as follows: Mary Hillberg - 4.10.D and 4.2.C. Mary Sphar – 4.1.B.3 and 4.1.C.3. Mike Moehle – 4.1.A.3 and maybe 4.2.A (depending on Ernie Brown's interpretation of it). Billy Kempfer – 4.1.A.4. Tom Schuller – 4.1.A.3 (already identified), 4.1.B.2 and 4.1.B.3 (already identified). Jon Shepherd – 4.1.B.3 (already identified).

Tim Franta – Let us quickly go to 4.1.B.3. What is the problem with this?

Mary Sphar – I have done a little research on the mining. There was a lawsuit in Miami Dade concerning mining. That was coquina mining, shell mining. It impacted the Everglades. And, actually, there's problems in Palm Beach County. And they currently have implemented a moratorium on that. I found a letter to the editor in the Palm Beach Post from someone who is considered by many to be the best environmental attorney in the State. He says, "Mines punch huge deep holes in the ground, exposing groundwater, and potentially allowing unhealthy water deep below to flow to the surface where it harms wading birds and other species. They can worsen water shortages during the dry season and worsen flooding in the wet season. Their impacts cannot be predicted with certainty." I don't particularly have a problem with Billy's mine, but the problem is I just saw a mine up before the P&Z last week. I wouldn't want this to be the mine capital of south and central Florida. And I would like the language to stop right at "Industrial land uses shall be prohibited", just like it is now.

Tim Franta – Is that a motion?

Mary Sphar - It's a motion to stop the language right after "prohibited". I just don't think we have the data and analysis to support us to change the Comprehensive Plan.

Tim Franta – Do we have a second?

Bob Massarelli – I'll second it.

There was group discussion regarding the motion.

Tim Franta – We're going to do an absolute vote, thumbs up, thumbs down, neutral. This requires 12 votes. This is a real vote. (Eight group members gave a thumbs up, six a thumbs down, and one was neutral.) So the language is remaining in.

There was group discussion.

Tim Franta – Let me ask an informal feeling of the group. How many of you have questions or concerns about the word "or" (in the language of 4.1.B.3)? Does anyone have anything they would like to do with the word "or"?

Bob Massarelli – I'd like to make a motion that after "the 25-year floodplain", put a period and delete "or if the activity is in the best public interest". So what we end up with is industries prohibited, except for mining.

There was group discussion.

Tim Franta – We have what I said up there, and we also have the motion on the floor. "Industrial land uses shall be prohibited, unless it is in the best public interest, or except for mining, where it does not increase the filled footprint within the 25-year floodplain."

Bob Massarelli – I'm going to withdraw my motion.

Tim Franta – Somebody needs to make a motion about what's up on the board.

Bob Shaw – I'll make the motion.

Tim Franta – Is there a second?

A second was made by one of the group members.

Tim Franta – “Industrial land use shall be prohibited, unless the activity is in the best public interest, but except for mining, when it does not increase the filled footprint within the 25-year floodplain.” Thumbs up, thumbs down, neutral. (Fourteen group members gave a thumbs up, and one gave a thumbs down.) Moving on. Let’s go back to 4.1.B.2.

Tom Schuller – We limit ourselves to one acre. So somebody could have lots of acres of industrial land. They get to fill 3,000 square feet per acre, but then we limit that to only one acre. If somebody has a 20-acre industrial parcel, they’re limited to just one acre.

Bob Massarelli – Commercial. Industrial is not allowed.

Tom Schuller – So if they have a 20-acre commercial, they’re limited to use one acre of that property.

Tim Franta – Do you have a motion to change it?

Tom Schuller – To delete the “no greater than one acre”.

Tim Franta – Is there a second?

The motion was seconded. There was group discussion.

Tim Franta – We have a motion to eliminate the “per acre”. Thumbs up to strike, thumbs down, neutral. (Five group members gave a thumbs up, and ten gave a thumbs down.) So the motion fails. Moving on. We’re going to go to 4.1.C.3. And what was the problem or comment about this?

Tom Schuller – My thoughts are that if they can develop this property, they can do it safely, meet all the regulations, they ought to be able to do something with the property. But for a blanket prohibit them to use it is a taking.

Bob Massarelli – We’re not prohibiting from using the property. It’s just that you cannot use it for commercial, institutional or industrial.

There was group discussion.

Tim Franta – There has to be a motion for us to proceed. Do you have a motion?

Tom Schuller – To withdraw that item.

Tim Franta – The motion is to strike all of 3. Is there a second?

Don Simms – I second.

Tim Franta - Thumbs up to remove all of 3, thumbs down not to remove it. (Five group members gave a thumbs up, and ten gave a thumbs down.) We’re moving on to 4.2.C. “The County shall provide incentives” – which we don’t define – “for transfer of densities within the riverine floodplain to reduce risk.”

There was group discussion.

Tim Franta – We need a motion.

Mary Hillberg – Make a motion to reduce this to eliminate that – C.

Billy Kempfer – To eliminate, or leave it as it is? “Shall provide incentives to transfer...

Mary Hillberg – To take it out.

Beth McMillen – We’re saying that incentives will be provided, but the incentives themselves would be provided in the ordinance. It’d be determined elsewhere. We wouldn’t determine what those specific things...

Mary Hillberg – So you’d say, “The County shall provide for incentives that will be described in the ordinance”, but you’re transferring densities...

Beth McMillen – Or whatever, but we wouldn’t describe them. You leave it the way it is, it would be taken from there. We’d just put a note in to let the County Commission know we have put this...

Tim Franta – So it can be reflected in the minutes, if that’s what you want to accomplish. I kind of got the impression there was a motion to keep this, as is, but to let the County Commission know that we have put incentives in here, without defining them.

Billy Kempfer – So move, if you need a motion.

The motion was seconded.

Tim Franta – Thumbs up, thumbs down, neutral. (Thirteen group members gave a thumbs up, and two were neutral.) We’re moving on to 4.1.A.3 and 4. Who had the concern about 4.1.A.3?

Mike Moehle – It’s actually 4.1.A.3, a and b. The existing language is a third of an acre per acre. And I would like to see the “per acre” put back in. If you have a ten-acre commercial parcel, which is currently zoned for commercial use, and then you’re only going to be allowed to fill a third of it; whereas, if you have a third of an acre, you’ll be able to fill the whole thing. The only data and analysis I’ve seen is that the bulk of the 100-year floodplain is in public ownership, already. I mean, nobody’s demonstrated to me that eliminating the exemption is going to cause problems.

Tom Schuller – I would agree and also add that putting an effective date on this policy is a taking. We should leave it like it stands right now, without having it effective the day of this policy.

Tim Franta – Do you want to have these two separate issues?

Mary Sphar – I have one more issue. I don’t think the language precisely describes what we wanted to do. I sent an email to Darcie with a suggestion. (Ms. Sphar was not close to a microphone; therefore, some of her remarks are unintelligible) If a subdivision was created after March 4, 2002, until now, the developer would be expected only a third of an acre exemption for the entire subdivision. And the way the language reads now, if there were any un-built lots, each one of those would get a third of an acre exemption. So I had suggested some additional language that it (unintelligible), except for lots within platted subdivisions created beginning March 5, 2002, and the effective date, would allow one-third acre filled footprint without compensatory storage - applies to the subdivision as a whole.

Tim Franta – I’m going to take his first. He wanted to have one-third acre per acre on both a and b. Is there a second?

Don Simms – I second that.

Bob Massarelli – So you're not changing the language about the effective date?

Tim Franta – That will be the next...

Bob Massarelli – No, no, no. But because that – if a parcel was created before – say you have like two and a half acres, you're saying then they should be allowed to go to a little bit more than two-thirds, being able to fill that.

Darcie McGee – Can I clarify that? That's without compensatory storage, not that you can't fill that, but it's the compensatory storage you're talking about.

Lisa Frazier – But, in addition, for clarification, the way that staff has interpreted this ordinance, since the policy was enacted, is that it's not a third acre per acre. It's a third acre per project.

Mike Moehle – Let's look at the ordinance again, because we already went through all this, and it's not that clear to me, the language in the ordinance. The existing Comp Plan language is clear, though, and it's a third of an acre per acre.

Lisa Frazier – You're absolutely correct, Mike, that the ordinance is not very clear. But this is the way staff has been interpreting it. We need to clarify that.

Mike Moehle – It's a bad interpretation. The Comp Plan doesn't say that now. It says a third of an acre per acre.

Lisa Frazier – But I would challenge that I would not want to go back to a third acre per acre, that we stay with the interpretation of a third acre per project, because that's the way it's been given.

There was further group discussion.

Virginia Barker – A.1, above that, says that the residential density will be no more than two units to the acre. So with Mike's amendment, if you have a half-acre lot, I don't know which half-acre lot gets that one-third acre of fill. Or do they each get a sixth acre of fill? There are further complications.

Mike Moehle – You bring up another point. By changing it, at all, we're establishing potential Bert Harris claims. I'd just as soon leave it alone.

Tim Franta – Did you just withdraw your amendment?

Mike Moehle – No, I did not. I want it to be per acre.

Darcie McGee – I just want to make sure the distinction is made amongst the group that the one-third acre in here is not the amount of fill that you can have in the floodplain on your two dwelling units per acre. It's the amount you can fill without compensation. It's not capping the fill at a third of an acre.

There was further group discussion.

Tim Franta – We have a motion. And we are just dealing with adding the "per acre" after "one-third". Thumbs up, thumbs down, neutral. (Four group members gave a thumbs up, nine gave a thumbs down, and two were neutral.) The next question was to delete the "created prior to the effective date of this policy." Was there a second to that?

Billy Kempfer – I'll second it, for discussion.

There was further group discussion.

Tim Franta – Tom's motion is to strike the effective date, and it was seconded by Mr. Kempfer. Thumbs up to remove that, thumbs down, neutral. (Four group members gave a thumbs up, 11 gave a thumbs down.) So that fails.

Lisa Frazier – I'll make a motion that we reword a and b into one single sentence to state, "Undeveloped parcels created prior to the effective date of this policy may fill up to one-third acre filled footprint for development, without providing compensatory storage."

Bob Massarelli – Second.

Tim Franta – Amanda, is there any unforeseen circumstance?

Amanda Elmore – I don't think so. We'll have to run it through Christine.

There was further group discussion.

Tim Franta – We have a motion from Lisa to eliminate a and combine b into 3.

There was further group discussion.

Tim Franta – Thumbs up, thumbs down, neutral. (Twelve group members gave a thumbs up, and three gave a thumbs down.) Moving on to 4.1.A.4.

Billy Kempfer – I didn't even start the discussion about the mining in the 100-year floodplain. I didn't think about it, until we got to 25. And I'd just like to add the language of mining for the 100-year.

Tim Franta – Do we have to do that, because it's prohibited in the lower...

Billy Kempfer – No, it's left in the lower.

Tim Franta – I mean, it's in the lower.

Bob Massarelli – Industrial uses are allowed, except you can't fill more than 15,000 square feet. And since you're not going to fill, it's...

Darcie – Unless they need haul routes, and berms, and that kind of thing. So you would look at A.2 before you'd want to go back to mining.

There was group discussion.

Billy Kempfer – I'm happy, as long as it doesn't prohibit mining.

Lisa Frazier – Before we move off that one, I want the group to reconsider not being silent on institutional. Institutional zoning is a reality in this County, and we're being completely silent. Is institutional use allowed in the floodplain, or not? If you go to A.2, which is in the 100-year, we allow commercial/industrial land uses. Shall we just put in the word "institutional"?

Bob Massarelli – There are certain institutional uses that we don't want in the floodplain.

There was further group discussion.

Tim Franta – Was your motion to copy the language in the 10...

Billy Kempfer – I'll second for point of discussion.

Tim Franta – Was that your motion?

Lisa Frazier – Sure.

Tim Franta – O.K., there's a motion to take the language from the 10-year. By the way, that is conditional on the site, though. So is that the exact language...

Lisa Frazier – Yes.

There was further group discussion.

Bob Massarelli – Lisa, I just want to make sure your motion does not include commercial and industrial. It's strictly from C. It's strictly the institutional, the same language applied for institutional.

Lisa Frazier – We're being silent about institutional. It's bothering me. I think we need to address institutional. If we're all under the same feeling that most institutional uses are not really a good use in the 25- and 100-year, then maybe we put the language on there where it's prohibited, unless it's in the public interest, and it's use is integral to its operation.

Bob Massarelli – If I could offer an amendment to your motion that we make this Number 5, under A, and that it's, "Institutional land uses shall be prohibited, unless they are in the public interest, and the location of the use is integral to its operation."

Lisa Frazier – And are you stating that for A.5 and B.5?

Bob Massarelli – Yes.

Lisa Frazier – I'm good with that.

Mary Spahr – I had objected to that particular part, because "in the public interest" is a great big nothing. It means that the Commission okays it because - and they can have a variety of reasons. So I don't think you're prohibiting anything, because public interest means absolutely zilch, and, "location of use is integral to its operation", that really is confusing to the attorney.

Tim Franta – Thumbs up to include the language, neutral and thumbs down. (Nine group members gave a thumbs up, three were neutral, and three gave a thumbs down.)

Lisa Frazier – Mary, why don't you make a proposal on what you think it should be.

Mary Spahr – I would put "best public interest".

Sandra Clinger – But that excludes private research. That's why we made that change before. Is there another way around that?

Mary Sphar – The only other way around it that I see is to put it in with Number 2, “Commercial, industrial and institutional land uses shall be limited to a filled footprint of no more than”, you know, just bump it in there.

Lisa Frazier – I’m hearing what you’re saying, Mary, and I really want to consider it.

There was group discussion.

Lisa Frazier – I make a motion that in the 100-year, we just add institutional to commercial and industrial land uses.

Sandra Clinger – Second.

There was group discussion.

Bob Massarelli – I can’t support that because it’s way too broad. All the institutional uses suddenly can show up between the 25 and the 100. We’re talking hospitals, extended care, things that have no business being in the floodplain.

Billy Kempfer – If she modified her motion to put “public interest” in there?

Bob Massarelli – I could probably live with that, but that doesn’t solve Mary’s problem.

Billy Kempfer – Mary would be happy if you have the 15,000-foot fill footprint.

There was further group discussion. Lisa Frazier withdrew her motion.

Sandy Clinger – The motion that failed 9:3:3, that motion, plus adding institutional to A.2, where institutional is allowed if it’s in the best public interest, and there’s a limit on its footprint size.

Tom Schuller – All the way out into the 100?

Sandy Clinger – All the way out into the 100, yes, for institutional.

Billy Kempfer – I’ll second that. I think I second what you’re saying.

There was further group discussion to craft the proposed language.

Tim Franta – O.K., the motion is, “Institutional land use shall be prohibited, unless it is in the best public interest, and location of the use is integral to its operation. If allowed, filled footprint shall not exceed 15,000 square feet per acre.”

Lisa Frazier - That’s only for A.5.

Darcie McGee – Do you want “best” or “public interest”?

Several group members responded that they wanted “public interest”. “Best” was deleted. There was further group discussion.

Tim Franta – Thumbs up, thumbs down, neutral. (Eleven group members gave a thumbs up, one a thumbs down, and three were neutral.) Before I move on, is there anything that can be changed that would maybe change the vote? If not, that has failed, and we're moving on.

There was group discussion regarding the chances of the entire document passing in its current form, as many motions were failing.

Darcie McGee – I can report things in a note. In the agenda item, I can say these votes were taken, but they didn't reach the 70 percent.

Virginia Barker – The folks that are voting neutral, we really don't know whether they're going to approve it, or not, in the end. So it would seem to me that if the combination of yeses and neutrals together might be 12, that maybe those changes should be being made.

Lisa Frazier – However, Virginia, the changes that the majority wanted to put in there are not being put in there.

Virginia Barker – That's why I'm questioning that process.

There was further group discussion.

Bob Massarelli – I make the motion that we stop taking neutral votes and just take up and down, period. I make that motion, and that we revote.

There was further group discussion.

Tim Franta – Thumbs up, thumbs down, neutral, to remove the neutrals. (Eleven group members gave a thumbs up, three gave a thumbs down, and one was neutral.) This is for drafting. The final vote will have to be 70 percent. This was a mechanism for us to get there.

Bob Massarelli – I make a motion that we reconsider the previous motion on A.5, "Institutional land use shall be prohibited, unless it is in the public interest, and location of the use is integral to its operation. If allowed, filled footprint shall not exceed 15,000 square feet per acre."

Tim Franta – Is there a second?

Lisa Frazier – Second.

Tim Franta – Moved and seconded. Is there a discussion?

Drew Powshok – I have a question. Does that eliminate a radio tower?

Bob Massarelli – This strictly is institutional.

Drew Powshok – For FIT?

Amanda Elmore – That's a zoning question. If Zoning says that it's institutional for FIT, then...

Drew Powshok – Then it's prohibited.

Lisa Frazier – Not necessarily.

Amanda Elmore – If it's in the best interest.

Bob Massarelli – Public interest, not best interest.

Tim Franta – We're voting again on A.5. Thumbs up, thumbs down. (Eleven group members gave a thumbs up, and four gave a thumbs down.)

Bob Massarelli – I'd like to make a motion that A.5 and B.5 be added, "Institutional land uses shall be prohibited, unless they are in the public interest, and the location of the use is integral to its operation."

Tim Franta – Is there a second? No second, it fails. Moving on. We're up to 4.10.D. What was the concern?

Mary Hillberg – Policy 4.1 "sic" (should be 4.10) starts out and says, "Public facilities shall not be located within the 100-year riverine or estuarine floodplain, unless the following apply:" And these are different applications. And D said, "The building structures are flood-proofed and located above the 100-year flood elevation, or removed from the floodplain by appropriately-constructed dikes or levees, or" - and it goes on about best public interest. I objected to the building being removed from the floodplain with dikes. If we're going to be diking off, that's changing the whole...

Tim Franta – So is your motion to eliminate, "or removed from the floodplain by appropriately-constructed dikes or levees?"

Drew Powshok – Maybe there are existing dikes that are there now.

There was group discussion.

Mary Hillberg – I'd like to take out, "or removed from the floodplain by appropriately-constructed dikes or levees," because anyone can construct a dike or levee, and suddenly they've removed all their land out of a 100-year floodplain, thereby changing the floodplain...

Billy Kempfer – What about the dikes and levees that are already there? You can't put another one in now, because any levee that you'd put in now cannot exceed the 10-year flood elevation.

Sandra Clinger – These are just public facilities. This whole thing just applies to public facilities.

Mary Hillberg – Well, if it's only public facilities, then they should be found in the best public interest. Right?

Tom Schuller – Not best.

Mary Hillberg – Why not best, if it's public facilities?

There was further group discussion.

Mary Sphar – Bob wrote a paper for our consideration. And he accurately pointed out that much of the land south of 192 was located in front of levees; for example, the Platt property. So this particular sentence, how would that apply? Isn't that what you wrote?

Bob Massarelli – That's what I wrote. I tend to support the motion, because you're trying to protect the public interest, or the building structures. And if you elevate them, or flood-proof them, that's your protection. You don't need to put a levee system in to do that, because then you're going to get into the argument about how

big that levee system, what area should it capture, and all sorts of other things. And even if it's behind an existing levee, or even a Corps levee, for the protected public investment, I would still elevate it or flood-proof it, because the levee may fail in a larger storm event.

Tim Franta – This is the plan. After you finish this motion, we're going to take up Mary's 4.1.C.3. And then we're going to take a break. During the break, Darcie's going to print out the clean version and then give it back to us. We have a motion on the floor to remove – and it's up there – “or removed from the floodplain by appropriately-constructed dikes or levees.” Thumps up, thumbs down. (Eight group members gave a thumbs up, and six a thumbs down. One group member did not vote.) And did you have another motion to add “best” in the...

Mary Hillberg – I make a motion we add “best” in E.

Tim Franta – Is there a second?

Mary Sphar – Second.

There was group discussion.

Tim Franta – Thumbs up, thumbs down to include “best”. (Five group members gave a thumbs up, and ten gave a thumbs down.) Mary, what is your motion for 4.1.C.3?

Mary Sphar – It's pretty simple. I would like to go back to the existing language in the existing Comprehensive Plan, which says, “Commercial” – and we'll add institutional – “and industrial land uses shall be prohibited, unless they are in the best public interest, and the location...” I just feel that if we said “unless they are in the public interest”, that means absolutely zilch...(the remainder of Ms. Sphar's remarks are unintelligible). My motion is to return to the existing Comprehensive Plan language.

Tim Franta – Then is that just to add the word “best”.

Mary Sphar – Add the word “best”.

Tim Franta – O.K., that is your motion. Is there a second?

The motion was seconded, and there was group discussion.

Bob Massarelli – Let me say, Mary, I appreciate your concern about how public interest has been interpreted by various Boards of County Commissioners. Unfortunately, that is our form of government. We elect our elected officials to make those public interest decisions all the time. There are consequences to elections. I understand that. That's why I support certain people, and I want them to make those decisions. If we're trying to get the Comprehensive Plan so ironclad that every decision is automatic, then why do we have elections?

Mary Hillberg – I understand what you're saying, but electing our public officials to make decisions is different than the Comprehensive Plan. A Comprehensive Plan is a living document that's supposed to grow and change, and so forth. But it's not something that I would want each four-year term to be able to vote in or out. This is something that would go on as a...

Tim Franta – The actual motion is to add the word “best”.

Billy Kempfer – Call the question.

Tim Franta – The question has been called. Thumbs up, thumbs down, to include the word “best”. (One group member gave a thumbs up, and 14 gave a thumbs down.

Mary Hillberg – I have a point of order. When the question is called, and people are discussing it, the calling the question, number one, should be identified. They should be recognized by the facilitator. And that does not shut the person up from speaking. What that does is create the necessity for a two-thirds vote to stop talking.

The group took a break at 4:37 p.m. and reconvened at 4:59 p.m.

Tim Franta – Do you want to go section by section? Do you want to just readdress the three controversial sections? Do you want to read in silence, and have somebody make a motion to pass the whole thing?

Billy Kempfer – I move we vote on the whole thing at one time. Did Mike get his thing covered with Ernie?

Mike Moehle – My concern is that – we’re talking about 4.2.A – is that this is something that’s achievable, financially achievable, too.

Ernie Brown – I think Mike’s question is a good question. The engineer sat down and looked at it, and realized that it probably did need to be more clear in its language. But the question is whether or not you can retain your pre-development rates and volumes, in an undefined storm event, on your property. That’s a good question. But the drive home to this was, if you were discharging into an annual-, 10-, 25- or 100-year floodplain, you were responsible to meet, in any given storm – I think it may be prudent to qualify that, because the 1,000-year storm, you’re not going to retain that. But the objective there is to make sure that you are meeting your pre-development rates and volumes, if you are discharging into any of the riverine floodplains.

Mike Moehle – Is this going to be more rigorous than existing stormwater requirements?

Darcie McGee – No, it’s existing now. That’s the language that exists.

Mike Moehle – But I mean the existing requirements are a certain number of hours for...

Ernie Brown – They quantify the storm events. For example, Brevard County requires that you treat for the 25-year, 24-hour, storm event, which is nine inches of rain. That’s what Brevard County deals with currently, regardless of size of lot.

Darcie McGee – I was just saying it’s existing language.

Rich Szpyrka – No, it’s not for the 100-year. What Ernie just said was, they want to retain the pre-development storm on-site for the 100-year.

Ernie Brown – What’s she saying is that that language, as written, is in the Comp Plan. The question is whether or not that’s actually being implemented. I think the way it’s being implemented is for the 25-year, 24-hour, storm event.

Billy Kempfer – You can’t retain a 100-year storm, if it’s totally undeveloped.

Ernie Brown – And I think that’s what Mike’s going to, is that we apply this, using a 25-year, 24-hour, storm event. The Comp Plan does not define the storm event. I would be hesitant to define a storm event in the Comp Plan.

There was further group discussion.

Darcie McGee – I pulled the previous language up. Under the old Policy 4.1.E, it says, “There shall be no net change to the rate and volume of floodwater discharge in the pre-development 25-year riverine.” My apologies.

Ernie Brown – But we currently apply the 25-year, 24-hour, storm event, county-wide.

There was further group discussion.

Bob Massarelli – My concern is that the language we have in 4.2.A is inconsistent with the Capital Improvements Element, and we have to be entirely consistent.

Ernie Brown – The LOS for drainage says, everywhere, regardless of whether it’s floodplain or not, you have to be pre- and post- for 25/24 hour. A does not give a storm event, and that’s what makes it inconsistent. I also don’t like the term “floodwater”, because it’s not a common nomenclature for stormwater.

Tim Franta – We had a motion from Mr. Kempfer to (unintelligible) with the whole thing when this is addressed. So is there a motion to address 4.2.A?

Mike Moehle - He says that it’s doable, so I’ll leave it at that.

Ernie Brown – To give greater assurance that it is doable, you may want to say something to the effect, “consistent with the level of service”...

Bob Massarelli – (Unintelligible) to achieve the cup for cup. Because then we’re reducing it to the 25-year storm, rather than a 100-year storm.

Ernie Brown – Cup for cup is different than retaining your water. Cup for cup is a displacement issue. This is a stormwater retention issue.

Lisa Frazier – So we’d have to change the word “floodwater”, I think, to satisfy that.

Tim Franta – Do we have a motion for 4.2.A?

There was group discussion.

Tim Franta – If there is no motion, we’ll have a thumbs up, thumbs down, on the whole thing.

Lisa Frazier – I don’t think anybody’s seconded that.

Tim Franta – I was about to ask for that.

Lisa Frazier – Before we do that, can we consider something else, too? Is it too late to discuss things?

There was group discussion.

Bob Day – I’ll pull my second, in advance, if Lisa will tell us what she’s thinking.

Lisa Frazier – There were people from the audience who had wanted a little bit more clarification about the clustering incentives.

Bob Day – My personal opinion, we took care of that when we said look at options for...

Lisa Frazier – And I completely agree with you, but there's some verbiage that we could possibly add that clarifies it a little bit more. These aren't incentives. We're not talking about incentives. All we're saying is that - if you look at 4.2.C, at this point, it reads, "The County shall provide incentives for transfer of densities within the riverine floodplain to reduce risks." I'm proposing that we add "intensities", because then it allows – when we say, "The County shall provide incentives for the transfer of densities and intensities" - I think that would be more appropriate, because then you're capturing your commercial and industrial uses – "within the riverine floodplain to reduce risks and to encourage clustering of development." I really want a clarification as to why this wasn't going far enough. And it makes sense to me that we're actually encouraging transferring densities to clustered areas. Then we're achieving what we're all trying to do, and that's keep the open space intact.

Mary Sphar – I suspect that the person who's been working the group has a project of 59,000 acres, which is now in litigation, and is up in Courtroom 3-C for ten days now. If we put that language in - I was planning to vote yes. I will vote no. I can stomach Billy's mine, but I'm not gonna stomach industrial crammed in the floodplain in a parcel that is the lynchpin of wildlife corridor in Brevard and Volusia Counties.

Bob Massarelli - Mary, I really appreciate what you're saying, and I understand. But, earlier, we had maps of definition of our floodplains. The project you're talking about is not, by definition, within the riverine floodplain.

Mary Sphar – It has not been determined.

Bob Massarelli – By definition of the documents in our Comprehensive Plan, it is not part of the riverine floodplain.

Darcie McGee – We don't know that.

Ernie Brown – No, we don't.

Darcie McGee – It's not been determined yet.

Ernie Brown – That has to be confirmed by elevations.

Darcie McGee – It may, or it may not, be.

Bob Massarelli – Lisa, if you would consider an amendment to that, that it's consistent with the future land use designations. My concern is, yes, we can move intensities around, only if the future land use designation is for commercial or industrial.

Lisa Frazier – Again, I don't think future land use designations even plays back into this. We're allowing commercial and industrial within our floodplains.

Bob Massarelli – No, we're not.

Lisa Frazier – Yeah, we are.

Bob Massarelli – We're allowing that if you apply for it, that's your limitation that you get that you can...

Lisa Frazier – Yes. And this is only saying, within those limitations, we're encouraging you to cluster it all over here, instead of all together, instead of here, here, here, here.

Bob Massarelli – I'm fully supporting it, but what we heard in the very beginning was that it was consistent with the future land use designation and the zoning. And that's all I'm saying, is take what he said and add that to that. And I think that will help address Mary's concerns, because if the future land use designation is not industrial, we're not going to have industrial up there.

Mary Sphar – We're getting all these specialized future land use designations, such as Farmton Mixed Use Area.

Glen Storch indicated that he wished to speak. Tim Franta told him that he would let him ask a technical question.

Glen Storch – If you do not have a comp plan that shows those uses, then you can't cluster those uses. Is that right? So the only uses that we would be allowed to cluster would be whatever is allowed under the Comp Plan. So I think he's absolutely correct. If you added that language to that, that should solve everyone's concern.

Mary Hillberg – Under 4.2.B, it says that, "Practices shall be encouraged in development of property within the riverine floodplain to minimize," blah, blah, blah, blah, blah. And then the next sentence says, "Practices may include clustering of development areas, provisions for open space, low-impact design features, and flood-proofing." Isn't that what we were talking about?

There was further group discussion.

Tim Franta – Lisa's motion has been made.

Bob Massarelli – I'll second it. Discussion. Let me make sure you understand that along 520, there's property that is already future land use designation of commercial. It's already zoned commercial. It's already within the 100-year floodplain. So what we're saying is that we're going to encourage them to cluster the intensity of that commercial. We want to get incentives to allow them to do it. Don't get hung up on a green fill project somewhere else. There are real live situations we need to address, and this helps us address them.

Tim Franta – There's been a motion. It's been moved, and seconded, to add "and intensities, and encourage clustering of development." Thumbs up, thumbs down. (Eleven group members gave a thumbs up, and four gave a thumbs down.) Mr. Kempfer wants to take a feeling of the board, thumbs up, thumbs down, for the whole thing. This is just taking a feel for the group. Is there a second?

Bob Day – Second.

Tim Franta – Thumbs up for a feeling that you're going to pass the whole document. (Twelve group members gave a thumbs up, and three gave a thumbs down.) Having reflected on that vote, does anyone have anything for the group to say, and is there a motion?

Bob Massarelli – Is there any one or two issues that we might consider to help fix problems that you see? Or is it just so overwhelming that there's just no way to fix it?

Billy Kempfer – I think Mike's big issue is compensatory storage in the 100-year floodplain. I don't know if he's got any other major problems.

Mike Moehle – That's it, the third of an acre for 100 acres. That's not the way it is now.

Billy Kempfer – But the ordinance is already in effect to that statement.

Ernie Brown – It's current practice.

Mike Moehle – You know, we read it, and I didn't read that.

Billy Kempfer – Ernie, how is it applied today?

Ernie Brown – Currently, we apply it one third of an acre for the project. I can tell you that the intent of that – it's not in the Comp Plan, so we can't – it's not enforceable – was to allow only those lots prior to the enactment of this Comp Plan, the '88 Comp Plan, to be allowed per lot, one-third of an acre. But that only applied to those lots prior to the promulgation of the first Flood Hazard Area Element. The way we are applying it now, because of the vagueness of it, was allowing it for a project. The project could be 100 acres, whatever it is.

There was group discussion.

Bob Massarelli – My intent, by putting it in there, was to make the way the staff has been interpreting things consistent with – make the Comp Plan consistent with that.

Tom Schuller – And it should be the other way around. The Comp Plan was already set. The staff should be consistent with the Comp Plan that was there.

Ernie Brown – The ordinance can always be more stringent than the Comp Plan. But it can't be less stringent. It has to meet the intent, and can be more stringent.

There was further group discussion.

Tim Franta – We are headed for a final vote, I suspect, in a moment. Is there any comments from the public, before we do that? (no response) Do we have a motion?

Billy Kempfer – So move to accept the entire document.

The motion was seconded by more than one group member.

Tim Franta – Thumbs up, thumbs down. (Twelve group members gave a thumbs up, and three gave a thumbs down.) The County Commission will also get the minutes that show the other things that passed by 11 or nine, that failed. Is there anything else you'd like to convey to the County Commission as a note?

Mary Sphar – I noticed in the minutes that you said that, as a group, we can express our concerns to the County Commission regarding things outside of our sandbox. I wrote two questions that I was going to get a thumbs up, thumbs down. Should compensatory storage requirements be added to the Comprehensive Plan for the isolated floodplain? And I'm thinking that this would use the same wording we decided on for the riverine floodplain, "no net loss of flood storage capacity....."

There was group discussion.

Tim Franta – This was not our sandbox. Mary is recommending that the Board consider compensatory storage requirements to added to the Comprehensive Plan for the isolated floodplains.

More than one group member seconded the motion.

Tim Franta – Thumbs up to express that to the Board as a note, thumbs down not to express it. (Nine group members gave a thumbs up, and six gave a thumbs down.) The second question is, the task force would recommend that compensatory storage be added to the Comprehensive Plan for estuarine floodplain.

The motion was seconded by Bob Day.

Tim Franta – It's been moved and seconded. Any discussion?

Bob Massarelli – The estuarine floodplain is a totally different animal with totally different types of dynamics there. It's not as simple as the riverine.

There was group discussion.

Tim Franta – The motion is to recommend that the County Commission consider compensatory storage requirements to be added to the Comprehensive Plan for the estuarine floodplain. Thumbs up. (Seven group members gave a thumbs up, and eight gave a thumbs down.) We will start on wetlands.

Darcie McGee asked the group if they wanted a presentation on wetlands.

Bob Massarelli – I would like to know what the problem was.

Billy Kempfer – The only thing in our sandbox is if commercial and industrial use should be allowed in wetlands.

Bob Massarelli – Was has incinerated this issue?

Billy Kempfer - You missed the pictures I showed. There are wetlands that are true wetlands, water-dependent (unintelligible), and such as that. And then there's areas that are being delineated as wetlands that most people would not call a wetland.

Jon Shepherd – I don't think we're even going to touch on that.

Mike Moehle – The wetlands provision of the County Comp Plan is really what's been driving all the annexations for ten to 15 years, people trying to escape these provisions.

Ernie Brown – That's still an opinion.

Tim Franta – Prohibiting commercial and industrial use within the wetlands, that's your sandbox.

There was public comment, as follows:

Bill Kerr – My name is Bill Kerr. I've been a biologist here for all my life, 27 years in business. I was at the County Commission meeting where this ordinance was established. And it was very confusing, because the Commissioners did it by just sort of like ya'll are doing it. There would be a proposal, and a second, and then an amendment, et cetera. And, unfortunately, it was a time where the staff was really not considered. And so what you have is, there are wetlands that you have on a piece of property, and whether they are cypress, or whether they're little bitty wet prairies, or whatever, they're still wetlands. And you cannot have commercial or industrial development in those areas. And this is just for you to consider, because I'm only one person. But if this table, circular table, was a development, and in the center was a cypress dome, it takes up half the circle. Then once your development is through, you have concrete completely surrounding a little isolated wetland in

the middle of the development. Now, I can tell you, as a biologist – you can ask John – there's some other people around here that can answer the same question – the functionality of that wetland, it will prevent floodwaters, or help compensate for flooding. It will, in some minor way, through attracting the water, being a low place, and the water going down in the ground to recharge the surficial aquifer, but it isn't going to help the deer, and the turkey, and snakes, and those other things that are within that wetland, because they're not going to cross the big expanse of commercial or industrial development. So your ordinance, while I understand why it's there, I don't think it resulted in what you want. Now, I may be wrong. If that's what you want, then I'm totally wrong. I am not suggesting, though, that you make drastic changes. St. Johns River Water Management District has a rule in place, and if an area has a better long-term chance of survival, and is regionally-significant, then you can mitigate. What do I mean by that? Again, I'll take this circle. Let's say this circle is a piece of property that Brevard County owns, and is environmentally-protected. If your ordinance could allow commercial/industrial development, the developer, to mitigate for that wetland in the center, it has to be in an area that is contiguous to the large piece of land that Brevard County already owns, or St. Johns River Water Management District, or one of the cities or municipalities. That way, it can be incorporated into the overall management of the project, and you get the interaction of the deer, and the turkey, and the bird and that kind of stuff. It's just something I want you to consider because, in my opinion, preserving that little bitty wetland in a big commercial/industrial development kills half of the wetland, and you're going to have it forever. And what's it going to collect? Paper cups. It's going to collect runoff from the parking lots, and that kind of stuff. I'm hoping that I have communicated this clearly. Being able to mitigate in large contiguous areas that are managed by a state or municipality has a long-term better change of survival than isolated one- or two-acre wetlands in the middle of commercial or industrial property.

Billy Kempfer – What about contiguous wetlands that are within a conservation easement, or put into a conservation easement, that may still be on private land, such as a mitigation bank?

Bill Kerr – Any time you can add to an area that is already a large land area, and managed – if it's on a conservation easement, then the state or the municipality's going to require long-term monitoring and maintenance, and that kind of stuff. So, sure, something that would add to a bigger area. I know that this suggestion is going to allow development in isolated wetlands, which does not do any good for amphibians, or snakes, or frogs or those kind of things that would use that area. On the other hand, you're going to gain – and it's not a one-to-one mitigation issue. If that was an acre there, you couldn't just do an acre in some other place, adjacent to some regionally-significant place. It has to be a multiplier. You have to mitigate that wetland, one acre in the middle, it's got to be ten, or 12, or 15 acres someplace else that is adjacent to regionally-significant land.

Mike Moehle – (The beginning remarks by Mr. Moehle are unintelligible)...State law, this uniform mitigation method, and it's practiced by the water management districts.

Bill Kerr – It has to be practiced by every municipality in the State. The Corps has already accepted it. Their time lag is a little bit different than the State, but it's all the same.

Mike Moehle – It's a complex formula, whereby the functionality of the wetland, and the functionality of the mitigation, and all these factors are assessed before issuing a dredge and fill permit. So is there a reason why the County staff needs to duplicate those efforts?

Billy Kempfer – Some of the emails that have come from staff – I think the thinking of some of the members of the group is that some of these true, maybe water-dependent wetlands, or wetlands that everybody shows pictures of, they still should be protected. But the lesser value, should there be – and according to what you just said, it probably doesn't matter if it's an isolated wetland, whether it's the greatest wetland in the world or a wet prairie.

Bill Kerr – If it's a wet prairie, it's going to have less chance of survival, because a wet prairie's survival is – it is so important to get that water level right. And when you eliminate the drainage basin to do everything around it, it's hard to get that wet prairie enough water. A deep-water wetland, cypress dome, or hardwood swamp, or something like that, has a better chance of survival, because it can tolerate different water elevations. But it's still not going to be as viable as it would be if it was a one-acre surrounded by forest and uplands.

Billy Kempfer – So what you're saying is that even that high-value wetland, or the watered wetland, it would be just as well off to mitigate as it would be to...I

Bill Kerr – It would maintain more of its vitality than a shallower wetland. It would be there longer.

There was group discussion.

Public comment continued, as follows:

Glen Storch – I want to reiterate some of the things that you just heard, but I also want to give you a little bit of a history. If you look back, 50 years ago, the policy of the State of Florida was to destroy all wetlands. Wetlands were considered to be insect (unintelligible), the areas where mosquitoes came from. And so the policy was to dredge and fill, and take out all wetlands. Over time, we changed, and changed our laws, as well. And individual counties and cities also changed laws, such as you did when you originally did this wetland ordinance, and you protected all wetlands. The problem is, as science goes through, and you begin to learn what you're trying to actually protect, and how best to protect it, sometimes what we passed as laws in the past aren't the same as you should do right now. In this case, what we're trying to do, and this is what I've tried to understand over the past 20 years, is protect habitat. It's not to protect the hole in the doughnut. If you go to the parking lot at Disney World, you see one small little wetland covered by parking all the way around it. You know that has no habitat value, but it is protected as a conservation easement. You have small pocket wetlands in pastures. It's still part of the pasture, but that area may be considered wetlands. Those are not the kind of areas that we necessarily want to protect. Instead, you probably want to find some mechanism to utilize those so that you create a real habitat area, habitat corridors, where you combine those areas together to have a real habitat that's big enough. Certain species, such as bear, can't live on small pockets, anyway. Many species require much larger areas. The only way we're going to get those areas is to try and create these habitat corridors through mitigation, and mitigation banks, to some extent, and by encouraging cluster, which I truly believe in. One of the things you were talking about (to Ernie Brown) is the fact that you are encouraging people to go somewhere else if your rules are so strict that people can't utilize their land. And that's exactly what does happen. It happened in Volusia County. A number of people decided to go and start annexing left and right, into various communities, until we did something called a minimum environmental standard. And we created minimum environmental standards that we all agreed upon, so that there were no inconsistencies between the county and the various cities. It slowed the rush to annexation by doing that. In most cases, if you'll look across the State of Florida, most communities all now utilize St. Johns, the State agencies, the Army Corps of Engineers, to make the determination as to how best to protect wetlands, rather than create their own standards. So that's what I was looking at. And that's one of the things you're looking at here, is doing just that, trying to figure out, from an economic development standpoint, and from an environmental standpoint, what's the best way to protect habitat.

Tim Franta – Ernie, could you give a little information as to what the goal was?

Ernie Brown – The Board of County Commissioners recognized that the current commercial and industrial language was flawed to the point that it was not able to be effectively implemented within the unincorporated areas. So they asked staff to look at ways to make that more manageable. We can't document whether or not it really drove annexations. The suspicion is out there that it drives annexations. We can't empirically provide that as a supportive posture. But, regardless, the Board said to try to fix it. And so what staff did is, they came

up with a suite of proposals that would allow for – because they said they wanted it to be more reasonably-allowed within the unincorporated portions of the County. So we came up with some proposals. The overriding issue was redevelopment, some sort of commercial/industrial corridors, whatever that may look like, and one of my favorites, some people's not so much, is de minimis impacts, were the areas that staff served up to the Board. And it was agreed that it needed more work than just what was proposed. So you all are here tonight to put some meat around that conversation. How do you address those three areas? Do you recommend those be the three areas where impacts are allowable for commercial/industrial, or not? And if you are recommending that those three areas are allowable for commercial/industrial impacts, what does that look like?

Lisa Frazier – How are we going to do this in an hour? Do we even begin the whole conversation?

Mary Hillberg – We have to just tell the Commission that it's not possible to...

Billy Kempfer – I'd like to get as far as we can.

Ernie Brown – You have a couple options before you. The Board did set a very high bar for this group. Our previous task force worked for months, and months and months, and months to accomplish all those significant strides, nothing of this magnitude. It is possible that you can ask the Board for an extension for this particular topic. You can go back and say we didn't have time to do it, and just leave it at that, or you could try to get some nuggets for change.

Lisa Frazier – And what's the driving deadline?

Ernie Brown – The unspoken deadline? It is a concern about our inability to, from the dais, effect change of the Comp Plan (unintelligible). The desire is to get it right. And I think that most people in this room, although your perception may be different, would agree that changes need to be made to this Comprehensive Plan element. I don't know if there's big nuggets that you all want to try to tackle, recognizing that there's things that we do not have time to address.

Billy Kempfer – I would kind of like a feel from the group whether they feel that the old language needs to stay as it is, or if they are willing to address some commercial/industrial impacts within wetlands. I make a motion that we take a vote for the feel of the group as to allow some industrial and commercial in wetlands. And we're not discussing anything any further, any commercial and industrial activity within wetlands.

The motion was seconded.

Mary Sphar – We do allow some impact for commercial/industrial in wetlands.

Billy Kempfer – As of right now, there is none.

Mary Sphar – No, you're wrong.

Ernie Brown – Can I go to that from a staff perspective? There are two circumstances, in general, that commercial/industrial wetland impacts are allowed. It's the I-95 interchange suite of limitations. If you meet all those lofty criteria, you can impact, if you are substantially surrounded, prior to 1996.

There was group discussion.

Tim Franta – Thumbs up, thumbs down. (Fifteen group members gave a thumbs up.) I guess the next question would be what can we do in one hour, and would you ask the Commission for one more meeting, two more meetings, or...

Mary Hillberg – This is really not fair to the material, and not fair to the people doing it. You did the surface water in 16 months, with a group of 15, and they came to consensus. It's very hard to come to consensus without time.

Billy Kempfer – Where are the problems in what was proposed by the staff? I mean, I have one. It didn't include mining.

Bob Massarelli – If we could limit the discussion right now to the I-95 interchange. There are six criteria given for that. Which ones of those don't work or are causing problems?

Mary Sphar – The only thing that we should say is that we should allow commercial/industrial development at I-95 interchanges within a half mile of the interchange. We shouldn't have all those other criteria.

Jon Shepherd – I'll tell you why I disagree, Mary. You brought up Parrish last week. A perfect example is, just to the north of Parrish is another site, a commercial site, on the corner of Port St. John Parkway and Grissom. And that is just over a half mile away from 95. I understand where you're trying to go, but I don't think it's really going to meet your intent. What if it's a half a mile, minus ten feet, or a half a mile, plus ten feet? That's where we have problems. That's why we've got to get rid of that, altogether.

Mike Moehle – So the staff's solution was, "Commercial and industrial development activities in the wetlands that would be considered infill development, as defined in Florida Statute, Chapter 163.25142, are allowable." That sounds reasonable. If it's infill, then you mitigate for it, and you get dredge and fill permits from the Corps and the Water Management District. Then, you know...

Bob Massarelli – I move that we take Policy 5.2.E.2 and delete everything after, "except for certain commercial developments", and insert – what I'm doing is, I'm eliminating the I-95 discussion. We're not creating a special category for them. Insert, "except for sites that a dredge and fill permit have been approved by the State and by the Corps of Engineers." If you get a permit to fill, that's your first criteria. Second, that you provide mitigation, as provided in the Florida Administrative Code, which is the uniform standards, and that mitigation is in Brevard County, and that the surrounding land uses are predominated by commercial or industrial uses.

Bob Moehle – You can't just say Brevard County, because the water management districts are divided on a hydrologic basis, without regard to political boundaries. And the mitigation is decided on those factors, as well.

There was group discussion.

Bob Massarelli – If the mitigation is within the basin that it occurs. O.K.?

Billy Kempfer – That's already required.

Bob Massarelli – So, basically, I'm saying if you get a permit from the State and the Feds to fill, if you provide the mitigation under the uniform litigation assessment method, and if the land use is surrounded by commercial or industrial land use, then commercial and industrial is allowed. It's real simple.

There was further group discussion.

Mike Moehle – Why do we have to rewrite what the staff did? Why don't we look at it first?

Beth McMillen – He's saying what he said at the beginning of the floodplain thing. But the same thing is because what the staff did was not accepted by the public, that's why we're here. So just accepting what they did doesn't necessarily solve our problem.

There was further group discussion regarding Mr. Massarelli's proposal. They looked through all the written proposals, prepared by members of the group. Jon Shepherd briefly discussed his written proposal.

Tim Franta – Let's go with Jon first. And let's all read A, B, C and D and see our thoughts on that.

There was group discussion regarding Mr. Shepherd's proposal.

Lisa Frazier – I want to point out just a couple things that I was considering, because I work in wetlands, and I'm a wetland scientist. If you're going to allow impacts for residential development, why aren't you allowing impacts for commercial/industrial? I would argue the point that residential development can be as detrimental to a wetland system as a commercial or industrial use.

There was further group discussion. Some members of the group felt that their sandbox should be expanded to allow them to deal with buffers and protection criteria.

Mary Hillberg – I would like to move that we submit what we have done for the floodplain, flood hazard areas, and that we explain to the Commission that we are unable to address the wetlands at this time, and suggest that they allow us to come back at a later date and start with the wetlands issues.

Mary Sphar – What do you mean by issues?

Mary Hillberg – The wetland issues that the Commission gave us to discuss.

Mary Sphar – Only those?

Mary Hillberg – Well, that's all they gave us.

Mary Sphar – I want a bigger sandbox.

There was group discussion.

Mary Sphar – How about just improve the wetland policies with regard to commercial and industrial?

Don Simms – I second the motion for discussion.

Billy Kempfer – Ernie, if we don't do anything other than discuss this, the minutes of what we talked about will go before the Board, correct?

Ernie Brown – Yes.

Billy Kempfer – I would hate to shut it down completely, because there are a couple issues. Number one, I would at least like to have a straw vote, if everybody is in agreement that we do need to allow, in some form or fashion, industrial and commercial development within...(several group members spoke regarding not including industrial)...at least commercial within wetlands. And I would like to ask for a thumbs up, can we include mining in that?

Tim Franta – Let's get that motion up.

Mary Hillberg – My motion was that we present what we've done with the floodplains...

Billy Kempfer – But, if your motion passes, then we're through, and we go home.

Mary Hillberg – Well, we can't really do much of anything but discuss it in bits, and pieces and shreds, right now, which really isn't going to give us any continuity, if we do come back.

Billy Kempfer – And that's why I would like to ask that we have at least one more vote before we break this thing up.

There was group discussion.

Tim Franta – Your motion is to submit the floodplain product and ask the Commission to reconvene this group for more time so we can improve the wetlands policy for commercial and industrial development within the wetlands. Is there a second?

Mary Sphar – Second. But I want to make an amendment. My amendment is to add institutional.

Mary Hillberg – I second your motion.

Tim Franta – Is there any discussion for just adding the word "institutional"? (no response) Thumbs up, thumbs down. (Thirteen group members gave a thumbs up, and two gave a thumbs down.) Mr. Kempfer, do you have an amendment?

Billy Kempfer – Also, I would like to amend that to include mining.

The motion failed, due to lack of a second.

There was a motion to ask the Board of County Commissioners to allow the group to reconvene for six weekly meetings.

Tim Franta – Thumbs up, thumbs down. (Thirteen group members gave a thumbs up, and two gave a thumbs down.) Full motion, thumbs up, thumbs down. (Eleven group members gave a thumbs up, and four gave a thumbs down.) It passed the group. So that is going to the Board as a note.

Mary Sphar – We know that there's been a workload problem with staff, because they've got too much to do. It just seems like, though, if we're going to accomplish something with the wetlands, we need some information. And it would be helpful if there could be a little additional – Darcie has done a wonderful job. I really think she's done an outstanding job. Actually, the information I want is not in her department. But it's the data and analysis from the Planning Department with regard to commercial strip areas and redevelopment areas. And we need some staff support to get the data and analysis. So if the Board could see fit that there be a reasonable level of staff data collection for us, because Darcie can't get this information. She does the best she can. And we need a little more help.

Tim Franta – Is that a motion?

Mary Sphar – Yes.

Tom Schuller – Does the St. Johns have that information? If so, let them regulate it.

Ernie Brown – Unfortunately, what she’s talking about is the land use land/planning data that’s required by DCA to make the Comprehensive Plan complete and sufficient. And that’s the challenge. The St. Johns is not obligated, or otherwise required, to address the land use criteria that 9.J.5 imposes upon local governments.

Bob Day – If we are reauthorized for another six months, then it may be the time, at the first meeting, to ask for support from the Planning & Zoning staff to get that data.

Ernie Brown – Just as a point of clarification, if this gets reauthorized, it will be abundantly clear to the Board what is absolutely necessary for staff to affect the outcome. Because I can tell you, here’s my little bit of whining, there’s a lot of things that have not been done because of the commitments that have been necessary to meet this obligation. So if you are reconvened to address this, it can only be done if the Board is willing to appropriately staff and fund – and it may require additional, external planning staff support beyond what the Planning & Zoning Department can...

Tim Franta – Do I hear a motion from Mary to change her motion to say “adequately staff and fund”?

Mary Hillberg – Yes.

Tim Franta – Is there a second?

Billy Kempfer – Where are you going to find the money, with everything being cut back?

There was group discussion.

Tim Franta – Was there a second?

Sandra Clinger – I’ll second.

Billy Kempfer – Restate the motion.

Sandra Clinger – This is that there be adequate staff support...

Mary Spahr – If we are reconvened, that the Board should see to it that there’s adequate staff and funding to provide the data and analysis.

Bob Massarelli – My concern with the motion is that if we think it’s important enough that we get together to talk about wetlands, I don’t want to give the Commission an excuse not to have us go forward by saying they can’t fund it. It would just kill the whole opportunity. I think if we stay silent on it, and maybe at the first meeting, after they reconvene, say these are the resources that we need.

There was group discussion.

Tim Franta – There’s been a motion, and a second. Unless Mary wants to withdraw, we’ll entertain the motion. O.K., there’s a motion that if we reconvene, we request that adequate staff and funding be provided for data and analysis. Thumbs up, thumbs down. (Four group members gave a thumbs up, and 11 gave a thumbs down.) is there anything else you’d like to address the Commission about?

Billy Kempfer – One thing that I would like to ask. In Policy 6.2, the mining deal, it says, “Mining operations should not adversely impact the protected wetlands” - and it says “should” – “or other water-dependent

systems, and set back a minimum of 100 feet from such wetlands.” I’d like to add, “If such wetlands are impacted, it would require the (unintelligible) methods for mitigation.”

There was group discussion.

Ernie Brown – Here’s the thought on that. If we make changes as it relates to industrial, which mining falls into, we have to make sure that we go back and ensure consistency across the entire Comprehensive Plan. So I think that if this group were to make a motion to that effect, whatever outcome, as it relates to commercial/industrial, should they be reconvened, that we also make sure that it’s consistently applied across the entire Comprehensive Plan.

Bob Day – I think that’s a job for the committee, should it reconvene.

Ernie Brown – I concur.

Tim Franta – So, Mr. Kempfer, what is your pleasure?

Billy Kempfer – I withdraw my motion. Lisa says that it’s already in the law.

Tim Franta – Is there anything from staff?

Darcie McGee – I’m going to have the extra minutes from this meeting, and last meeting, that I’ll email to everybody. If you have any comments, this stuff is due Friday. And I’m not here Thursday and Friday, so I need to do it Wednesday, and I’m in court on Wednesday. So you need to send them right now. So when you get the minutes, please, as soon as you can, I need your input back almost immediately. If I don’t hear from you, I’m assuming you’re good with everything. Once the agenda report is assembled and sent off to the County Manager, I will email everyone, and it will go up on-line so you can look at it.

Mary Hillberg – I’d like to add that I think that staff has done a wonderful job, and really gone above and beyond what I even expected that ya’ll would do.

Bob Day – And Tim’s herded us, very well.

Mary Hillberg – We appreciate you, very much, Darcie, for all your fast typing.

Bob Massarelli – I’d like to take that a stop further. I’d like to make a motion that we inform the County Commission of the great work that staff has done, and their support for this, particularly Darcie.

There was more than one second to the motion. A vote was taken, and all 15 group members gave a thumbs up.

Mike Moehle – After we adjourn this meeting, we will be officially disbanded, and we will not be subject to the requirements of the Sunshine Law, anymore. Is that correct?

There was group discussion.

Lisa Frazier – Let me read. “The working group members shall serve until completion of the report and presentation to the Board of County Commissioners.”

Billy Kempfer – When will this be on the agenda?

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Darcie McGee – Right now, the schedule is to go before the initial hearing on September 2nd, to the Board of County Commissioners. Now, it's going to be a Zoning meeting, so it starts at 5:00 p.m. And then it'll go to the LPA. And then it'll go back to the Board October 2nd, for a final transmittal, if they choose to go that way.

The meeting was adjourned at 6:50 p.m.