

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20041038

1. REQUESTED MOTION:

ACTION REQUESTED: Provide direction to County Attorney with regard to pending litigation on Greater Pine Island Community Plan Update (GPICPU).

WHY ACTION IS NECESSARY: The study prepared by Hanson Real Estate Advisors, Inc., estimates that, if the GPICPU goes into effect, it will result in a \$60 million loss in market value to agricultural lands on Pine Island. This loss of market value is expected to generate claims against the County under the Bert Harris Act totaling \$60 million.

WHAT ACTION ACCOMPLISHES: Enables the County Attorney to make necessary preparations to pursue Board's direction with regard to pending law suit.

**2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT**

A12A

3. MEETING DATE:

09-21-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

**5. REQUIREMENT/PURPOSE:
(Specify)**

- STATUTE F.S.70.001
- ORDINANCE
- ADMIN. CODE
- OTHER Pending Litigation

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT County Attorney
- C. DIVISION County Attorney
- BY: Timothy Jones
Chief Assistant County Attorney

7. BACKGROUND: The Board adopted an amendment to the Lee Plan (CPA2001-00018) consisting of the GPICPU on January 9, 2003. This plan amendment, among other things, created a new "Coastal Rural" land use category that was applied to several thousand acres of private property. The plan amendment has been challenged by landowners as not being in compliance with Florida Statutes, Chapter 163, and Rule 9J.5 of the Florida Administrative Code. Many landowners also complained that the effect of the new Coastal Rural land use category will be to significantly devalue their property, thereby entitling them to compensation under the Bert Harris Act.

Pursuant to Board direction on December 2, 2003, the County Attorney engaged Hanson Real Estate Advisors, Inc., to study the effects of the plan amendment on Pine Island land value. The trial of the pending litigation on the plan amendment has been delayed by the Administrative Law Judge so that the study could be completed and in the expectation that the study findings would possibly result in action by the Board to repeal some or all of the plan amendment; thereby, significantly changing the (Continued to Page 2)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

| A Department Director | B Purchasing or Contracts | C Human Resources | D Other | E County Attorney | F Budget Services | | | | G County Manager |
|-----------------------------|------------------------------------|-------------------------|------------|-------------------------|----------------------|-------------------------|---------------------------|-------------------------|---------------------|
| N/A | N/A | N/A | N/A | <i>[Signature]</i> | OA <i>RK 8/25</i> | OM <i>AS 8/26/04</i> | RISK <i>JS 8/26/04</i> | GC <i>JS 8/26/04</i> | <i>[Signature]</i> |

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

| |
|--|
| RECEIVED BY COUNTY ADMIN: <i>RK</i> |
| <i>8/25/04</i> |
| <i>9:25 AM SLT</i> |
| COUNTY ADMIN FORWARDED TO: <i>PLU</i> |
| <i>8/26/04</i> |
| <i>SLM</i> |

DS

issues to be tried in the case. We expect the trial to be set for sometime in October, and we need direction from the Board as soon as possible in order to properly prepare for trial.

Potential options for Board direction include:

1. Take no action on the plan amendment and continue to litigate in support of the entire amendment, and wait to see if any Bert Harris claims are ever filed.
2. Repeal the Coastal Rural portions of the plan amendment.
3. Repeal the entire plan amendment.