

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

3. **MEETING DATE:**

09-28-2004

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 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>Timothy Jones</i>	OA RK 8/25	OM DS 8/26/04	RISK DS 8/22/04	GC DS 8/25/04	<i>DS 8/25/04</i>

10. **COMMISSION ACTION:**

- APPROVED
- DENIED
- DEFERRED
- OTHER

RECEIVED BY COUNTY ADMIN: <i>AK</i>
8/25/04
9:25 am 367
COUNTY ADMIN FORWARDED TO: <i>AK</i>
8/24/04
<i>SM</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.

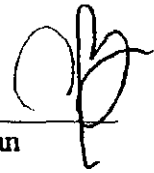
CO#4

MEMORANDUM  
From  
The Office of  
JOHN E. ALBION  
BOARD OF COUNTY COMMISSIONERS  
DISTRICT #5

DATE: September 14, 2004

TO: BOCC Districts 1, 2, 3, & 4

FROM: Chris Berry, District #5  
John E. Albion, Chairman  
District #5



RE: BOCC Meeting of September 21<sup>st</sup> Admin item 6-A and 12-A

Please be informed that due to Commissioner Albion's absence from the above mentioned meeting, it was determined that these items should have the approval of the full board. Therefore, Commissioner Albion is requesting that these items be deferred until the September 28<sup>th</sup> BOCC Meeting.

We apologize for this inconvenience and appreciate your consideration in this matter.

- CC: Don Stilwell, County Mgr.
- Bill Hammond, Deputy County Mgr.
- Holly Schwartz, Ass't. County Mgr.
- Pete Winton, Ass't. To the County Mgr.
- Bob Gray, Deputy County Attorney
- Jim Lavender, Public Works Director
- Diana Parker, Hearing Examiner
- Lisa Pierce, Minutes
- Libby Walker, Public Resources

*on recap*  
*09-16-04*  
