

DEVELOPMENT REVIEW COMMITTEE

Wednesday, February 15, 2013

MEETING MINUTES

The Monroe County Development Review Committee conducted a meeting on **Friday, February 15, 2013**, beginning at 10:30 a.m. at the Marathon Government Center, 2nd floor, 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL by Gail Creech

DRC MEMBERS

Townsley Schwab, Senior Director of Planning and Environmental Resources	Present
Mike Roberts, Sr. Administrator, Environmental Resources	Present
Joe Haberman, Planning & Development Review Manager	Present
Steve Zavalney, Captain, Fire Prevention	Present

STAFF

Christine Hurley, Growth Management Division Director	Present
Mayte Santamaria, Assistant Planning Director	Present
Steve Williams, Assistant County Attorney	Present
Mitch Harvey, Comprehensive Plan Manager	Present
Rich Jones, Senior Administrator, Marine Resources	Present
Tiffany Stankiewicz, Development Administrator	Present
Emily Schemper, Senior Planner	Present
Gail Creech, Planning Commission Coordinator	Present

CHANGES TO THE AGENDA

There were no changes to the agenda.

MINUTES FOR APPROVAL

There were no minutes for approval.

MEETING

Mr. Schwab introduced Dawn Sonneborn, with Keith & Schnars, who will conduct the meeting today. Ms. Sonneborn introduced Jeannine Kelsick with the Department of Economic Opportunity (DEO) and Debbie Love, Project Manager with Keith & Schnars, who were both attending by phone. Ms. Santamaria announced two complete copies of the draft amendments were available for the public to use.

Housing Element

Page 1, Ms. Stankiewicz commented that Policy 601.1.2 talks about a point system and the County does not assign points to affordable housing, it is a set-aside, and a clarification needs to be made because it is asking for qualified projects.

Page 2, Mr. Harvey recommended the stricken Policy 601.1.6 be kept in because it is a requirement of the local housing system plan incentive strategies required by Florida Statutes. Ms. Sonneborn will retain this policy. Mr. Harvey then suggested the word “compile” on the second line of this policy be changed to “maintain.” Ms. Stankiewicz questioned why land donation is included in Policy 601.1.7. Ms. Santamaria replied that is included here as the benefit from the County. Ms. Stankiewicz then recommended referring to the categories rather than percentages in this same policy because percentages vary in the code. Joyce Newman recited into the record a comment from Naja Girard that asked for a definition or an actual minimum to establish what “long term” is in Policy 601.1.7. Ms. Santamaria stated staff will discuss that further.

Page 3, Mr. Roberts requested on Policy 601.1.8, Number 1, to strike “as specified on the most recent Protected Animal Species maps” because they are old and are not used. Mr. Roberts proposed “potential threatened” in the second sentence of Number 1 be replaced with “potentially suitable threatened.” Mr. Roberts recommended inverting the last sentence of Number 2 of Policy 601.1.8 to read “Disturbed sites shall be selected unless no feasible alternative is available.” Ms. Newman read a comment from Ms. Girard to add V zones, offshore islands and CBRS properties as locations to avoid in terms of affordable housing sites in Policy 601.1.8. Ms. Santamaria stated staff will look into that, but believes because almost all of those areas are Tier I they are protected because affordable is not allocated to Tier I properties.

Page 4, Ms. Newman commented that Ms. Girard does not believe density bonuses should be included in Policy 601.1.12 in light of the County’s hurricane evacuation situation and potential liability for takings claims. Ms. Girard also submitted a comment asking for other incentives be included having nothing to do with residential units and more NROGO. Ms. Newman recited Ms. Girard’s comment that V zones, offshore island and CBRS units should not be on the list for affordable housing sites under Policy 601.1.14.

Page 5, Mr. Haberman suggested clarifying Number 2 of Policy 601.1.14 to read “The land shall be Tier III.”

Page 6, Ms. Newman recited Ms. Girard’s comment that Policy 601.2.1 is off point, but a good illustration of how things could work in the Conservation and Coastal Management element, and recited the further comment that the concept of a central depository could be set up for environmentally sensitive lands where members of the public could have a way to submit documentation.

Page 7, Mr. Harvey pointed out that Objective 601.3 mentions historic structures and sites, so Policy 601.3.4 should not be stricken. Mr. Haberman clarified the “Code Enforcement Office” in Policy 601.3.2 is now the “Code Compliance Office.” Mr. Harvey recommended the entire plan be searched for “code enforcement” and changed to “code compliance.”

Pages 8 and 9, there were no comments.

Page 10, Ms. Santamaria pointed out the “May 2014” date in Policy 601.5.1.

Page 11, Ms. Sonneborn stated everything has been deleted. There were no comments.

Ms. Sonneborn introduced Mark Tomasik, engineer with Keith & Schnars, who was attending by phone.

Potable Water Element

Page 1, Ms. Santamaria noted that the level of service in Policy 701.1. was changed to 100 gallons per capita per day, but the “66.5” down below is not corrected. Ms. Sonneborn will correct that. Ms. Kelsick questioned the December 2013 date in Policy 701.1.1. JoLynn Reynolds from Florida Keys Aqueduct Authority (FKAA) stated the historical data goes through 2011. Ms. Sonneborn will correct the year to “2011.” Ms. Reynolds then commented the drinking water standards are based on Florida Administrative Code 62-550 and “62-528” in Number 3 under Policy 701.1.1 should be changed to “62-550.” Ms. Reynolds pointed out that the population projections prepared stated the seasonal household was 2.7 persons per household and the Equivalent Residential Unit (ERU) Level of Service Standard will have to be recalculated based on that. Ms. Reynolds then commented that even though Keith & Schnars had noted that FKAA’s population projections methodology was flawed, the functional population number came from Monroe County. Mr. Tomasik explained in the technical document the ERU was not using the seasonal population to do the calculation. Mr. Tomasik stated if the 100 gallons per capita per day is utilized as a policy, the second part regarding ERU can be deleted. Ms. Santamaria replied statutes do not allow the County to have a binding level of service on a provider the County does not control, so the County has to rely on FKAA’s recommendation of what is appropriate. Ms. Santamaria agreed to strike the second part under Number 1.

Page 2, Mr. Harvey commented that since Policy 701.1.2 was deleted, Policy 701.1.5 should be deleted. Ms. Sonneborn agreed.

Page 3, Ms. Newman asked whether Alicia Putney had submitted her comments for potable water. Ms. Sonneborn confirmed that she had.

Page 4, Ms. Sonneborn stated the entire page has been deleted. There were no comments.

Pages 5 and 6, there were no comments.

Page 7, Mr. Harvey asked why Objective 701.5 was deleted. Ms. Love replied the County cannot direct FKAA.

Page 8, Ms. Sonneborn stated this page is a deletion. Ms. Love explained that Page 8 is part of Objective 701.8 back on Page 7 and the new text begins on Page 10.

Page 10, Captain Zavalney commented the Proposed Fire Flow area is not clear and proposed Policy 701.8.1 should read “Monroe County shall coordinate with the FKAA, in accordance with its Capital Improvements Program, to continue upgrading the distribution system toward the goal of providing fire flow capabilities throughout the Florida Keys” with no list. Ms. Reynolds would like the end of the sentence to state “as funds and land are available.” Ms. Love pointed out this is existing language that has been in place for a long time. Ms. Sonneborn reminded the Committee that Rich Jones pointed out yesterday that the Florida Keys is more than just Monroe County. Ms. Santamaria replied that is sufficiently clarified in the introduction section. Captain Zavalney then commented the figures under Proposed Fire Flow Requirements by Land Use Zone are problematic as well. Captain Zavalney explained how fire flows are calculated and then suggested stating that the fire flow requirements for development are governed either by the statute or the Florida Fire Prevention Code. Mr. Williams agreed. Ms. Santamaria suggested the language “Proposed Fire Flow Requirements shall meet the Florida Fire Prevention Code.” Captain Zavalney then explained the language “All commercial facilities not along U.S. 1 shall provide on-site abatement” in the last paragraph of Policy 701.8.1 does not apply anymore, because as FKAA is upgrading lines off of U.S. 1 it is possible that the fire flow would be met with that supply. Ms. Reynolds pointed out the language in their agreement that states in areas that FKAA deems are feasible, technically feasible and economically feasible, installation of hydrants is allowed. Ms. Santamaria suggested the language “Facilities not along U.S. 1 shall provide on-site fire abatement unless identified in,” and then citing the name and date of the agreement. Captain Zavalney recommended striking the second and third sentences of that paragraph. Ms. Reynolds will provide staff a copy of the agreement to cite the name and date of the agreement. Captain Zavalney then commented this may be the appropriate place in the document to state “Monroe County shall require that at the time a construction permit is issued adequate fire flow is supplied to the site in accordance with the Florida Fire Prevention Code.” Mr. Zavalney explained there are alternatives for areas off of U.S. 1 and very remote areas that cannot meet the fire flow requirements. Captain Zavalney then discussed the fire flow requirements. Captain Zavalney then explained to Mayor George Neugent that the way the Florida Fire Prevention Code is written it is the obligation of the owner, or in the case of new construction the developer and/or owner, to demonstrate adequate fire flow. Captain Zavalney then described alternate methods to fulfill the requirements. Captain Zavalney clarified this should not be an issue in any area that has a canal or is close to the water. Mayor Neugent stressed his desire to avoid having something in the comp plan that is impractical and unattainable.

Page 11, there were no comments.

Page 12, Ms. Santamaria noted the “May 2014” date in Policy 701.9.1

Page 13, Ms. Santamaria again noted the “May” date in Policy 701.9.7. John Hammerstrom asked to modify Policy 701.9.6 to read “Monroe County shall permit and encourage rainwater capture for all non-potable uses” and the household potable uses. Mr. Hammerstrom will submit his comments in writing.

Page 14, Ms. Newman commented for Alicia Putney that there should be mention of reintroduction cisterns or some sort of ability to rely on cisterns.

Sanitary Sewer Element

Page 1, Ms. Santamaria recited comments from Kevin Wilson that the citation in Goal 901 should also include 381.0065, Statute 403.086, as well as 99-395. The table in Policy 901.1.1, the first line should be “On-site sewage treatment and disposal systems”; on the second line “or equal to” should be deleted; the third line should read “design flows greater than or equal to 100,000 gallons” to match the statutes; and (B) should be eliminated since phosphates are removed from detergents since the 1980s. Ms. Newman asked if the washing products are the only source of phosphate for nearshore waters. Ms. Santamaria will confer with Kevin Wilson about that. Mr. Harvey asked if the level of service standards can be implemented with a central sewer system. Ms. Santamaria replied this is a water quality standard, but a capacity standard is needed also, which will be discussed on the next page.

Page 2, Ms. Santamaria commented that in the EAR document it is stated that level of service standards needs to be revised to provide for a capacity standard, but this has not been developed yet. Kevin Wilson suggests starting with 167 gallons per day per EDU, which is the same as a state standard, and he will provide further comment after performing other calculations. Ms. Santamaria then recited Mr. Wilson’s comment on (C) that this is controlled by the Department of Health and the County does not need to have its own regulation on the pump-out of the septic system since the County does not regulate this. On Policy 901.1.5 Mr. Wilson suggests removing BAT so points are awarded to the advanced wastewater treatment systems. Mr. Roberts noted Policy 901.1.4 seems to indicate that a permit will not be issued until permits are received from other federal and state agencies, which the County cannot do, and the permit has to be conditioned.

Page 3, Mr. Roberts questioned who in Policy 901.1.6 will determine what the level of service standards for package treatment plants will be. Ms. Santamaria believes this policy should state the County shall maintain the adopted treatment 403 standards that the State has placed upon the County. Ms. Sonneborn will modify this policy accordingly. Ms. Newman questioned whether “the Permit Allocation and Point Systems” is the correct phraseology in Policy 901.1.5. Ms. Santamaria explained the tier system is the actual mapping of the land based on the environmental features and the point system is where points are awarded based on tier and other factors. Ms. Newman then asked for clarification on the terms “land development code” used in Policy 901.1.6 and “land development regulations.” Ms. Santamaria explained in the glossary they are interchangeable. Mr. Roberts further explained when talking about the document as a whole it is referred to as the Land Development Code, but when talking about a portion contained within that document it is referred to as the land development regulations.

Page 4, Ms. Santamaria stated that Kevin Wilson is requesting Policy 901.2.2 be deleted because this is not a County responsibility, but is the responsibility of the Department of Health. Mr. Wilson, Rich Jones and Mr. Roberts will work together on this and provide further information to Keith & Schnars.

Page 5, Ms. Sonneborn stated Objective 901 begins on Page 5 and is picked up again on Page 6. There were no comments.

Page 6, Mr. Roberts commented the Sanitary Wastewater Master Plan mentioned in Policy 901.4.4 was already done. Ms. Santamaria will confer with Kevin Wilson whether this policy needs to be reworded. Mr. Roberts further commented Policy 901.4.4 should not state the County will enter into an agreement when the cited entities may refuse to enter into said agreement. Ms. Love clarified this was legacy language remaining from before the plan was even adopted. Ms. Love asked for comments from Kevin Wilson regarding this language. Ms. Kelsick questioned the “2016” date in Objective 901. Ms. Santamaria clarified it should be “2015.” Ms. Newman commented this section is difficult to read. Ms. Love explained again this is legacy language from prioritizing for the wastewater master plan.

Page 7, there were no comments.

Page 8, Ms. Newman questioned which master plan Policy 901.5.3 refers to. Ms. Santamaria replied the Sanitary Wastewater Master Plan. Ms. Sonneborn will include that.

Page 9, Ms. Santamaria noted the “May 2014” date in Policy 901.5.7. Ms. Schemper commented that OSDS is never spelled out. Ms. Sonneborn will do a search and spell it out the first time it appears. Ms. Newman agreed OSDS should be in the acronym section. Ms. Newman then questioned why Policy 901.5.9 was deleted. Ms. Love explained there is no need to have that now in the comp plan because that is now a part of the Sanitary Wastewater Master Plan and will be a requirement of every update. Ms. Santamaria will speak to Kevin Wilson regarding reuse possibilities. Mr. Harvey mentioned the South Florida Water Management District wanted to see focus on water reuse and water conservation in the ten-year water supply plan. Ms. Reynolds stated the lines for reuse are available in Big Coppitt, but there is not much interest from the public in hooking up to those lines.

Page 10, Mr. Harvey pointed out that Policy 901.5.16 does discuss wastewater reuse. Ms. Newman questioned why Policy 901.5.12 was being deleted. Mr. Roberts clarified this policy requires an inventory to be done by 1998. Mr. Roberts explained that uplands are the only areas that will be used for reuse because wetlands cannot be used for that purpose. Ms. Newman commented that Policy 901.5.16 contains weak language addressing wastewater reuse. Ms. Santamaria again stated staff will discuss the reuse possibilities with Kevin Wilson.

Page 11, Ms. Santamaria stated Policy 901.5.18 needs to be flagged because discrepancies are being looked at between State statute and the laws of Florida as well as County code in terms of 365 days versus 30 days. Mr. Haberman commented on Page 10 and 11 the language regarding variances is in direct conflict with some of the standards of the variance and recommended adding the language “exclusive of the regular standards for a variance.” Mr. Haberman then proposed the language “Notwithstanding the standards for a variance, the minimum required setbacks as specified in the Land Development Code may be waived to accommodate wastewater treatment plan expansion where it can be demonstrated that.” Ms. Newman questioned the reduction of the deadline from one year to 30 days. Ms. Santamaria repeated that will be looked into.

Solid Waste Element

Page 1, Ms. Newman had comments from Mark Saunders that she will copy and submit over the lunch break. Ms. Kelsick questioned why the disposal quantities in Policy 801.1.1 were doubled. Ms. Santamaria explained in the technical document there are various tables of information from Solid Waste reporting to DEP and this is an average of the waste production from 2000 to 2009.

Page 2, there were no comments.

Page 3, Ms. Love pointed out that yesterday staff commented that the County does not prioritize projects and Policy 801.2.1 is a prioritization for capital improvement projects. Mr. Harvey will look at this further. Rosa Washington explained to Ms. Santamaria that Solid Waste only considers these levels in this policy depending on what funding is and how bad the infrastructure is.

Page 4, Mr. Harvey questioned the likelihood of a Solid Waste and Resource Recovery Authority being created. Ms. Washington commented this policy will probably need to be removed. Ms. Santamaria recommended flagging Policies 801.3.1 and 801.3.2 as potential deletions because of the question if either entity mentioned will be created.

Page 5, Ms. Sonneborn stated this is a full deletion. There were no comments.

Page 6, Ms. Santamaria received confirmation the “January 4, 2014” date is correct in Objective 801.4. Ms. Santamaria then questioned the “Department of Environmental Management” in Policy 801.4.4. Ms. Washington stated it should be “DEP.”

Page 7, Mr. Harvey questioned where the “January 4, 2004” date came from in Policy 801.4.9. Ms. Washington replied it came from DEP. Deb Curlee suggested the Solid Waste element should address yard waste. Ms. Washington explained there are several alternatives being looked at. Mayor Neugent noted that Rhonda Haag will be bringing before the Board of County Commissioners (BOCC) a request to go out for an RFP to look into how to keep yard waste in Monroe County and not haul it to the waste energy plant. Ms. Newman questioned the decrease from 50 percent down to 40 percent in Policy 801.4.8. Ms. Washington replied it is a State directive.

Page 8, Mr. Schwab commented Policy 801.5.2 cites the Monroe County Public Safety Division and the Department of Environmental Management. Ms. Washington explained the Public Safety Division is Pollution Control. Ms. Kelsick commented that DEM on the bottom line of Policy 801.5.6 should be changed to DEP.

Page 9, Mr. Williams suggested adding the word “the” after “review” in Policy 801.5.7.

Page 10, Ms. Santamaria commented “DCA” should be “DEO” and “Environmental Regulation” should be “DEP” in Objective 801.6. Ms. Kelsick noted Policy 801.6.2 still has “Department of Environmental Regulations.”

Page 11, there were no comments.

Drainage Element

Page 1, Ms. Santamaria commented that Kevin Wilson recommends under Policy 1001.1.1A adding a provision that the standards for volume of surface water should be reviewed and revised on a regular basis to ensure they achieve minimum water quality standards. Ms. Newman noted that the goal refers to ground and nearshore water quality and in another element groundwater is referred to as a compound word, so this should read “protects groundwater and nearshore water quality.”

Page 2, Ms. Santamaria noted the “May 2014” date in Policy 1001.1.6. Ms. Newman questioned why “private” was being deleted from “drainage facilities” and asked what “to resolve common issues” means in Policy 1001.1.6. Ms. Santamaria replied this is to resolve local flooding issues and Kevin Wilson suggested removing “private” because the County has no control over that, but staff will double-check this. Ms. Curlee asked what replaces the safeguards of stormwater discharges since Objective 1001.3 is being deleted. Ms. Santamaria replied the standards are included under Policy 1001.1.1. Mr. Roberts added that the task in Policy 1001.1.3 has been completed and the ordinance the County adopted incorporated BMPs and design guidelines. Mr. Roberts explained Policy 1001.1.3 is a policy to maintain, review and update the ordinance, which includes an update of the BMPs. Mr. Hammerstrom requested a comment on low impact development practices be included in the policy and proposed “Monroe County shall adopt a stormwater management practice ordinance consistent with the NPDES best management practices and low impact development principles.” Mr. Roberts agreed that low impact development standards for stormwater management should be included. Mr. Hammerstrom will submit his suggestion in writing.

Page 3, there were no comments.

Page 4, Ms. Santamaria commented the “ranked” language in Policy 1001.2.1 will be reviewed by staff.

Page 5, Ms. Sonneborn stated this page has been completely deleted. Mr. Hammerstrom commented that the ground recharge aquifer element refers to this deleted objective. Ms. Sonneborn will review that.

Page 6, there were no comments.

Ms. Newman asked that “detention” and “retention” be included in the glossary.

Natural Groundwater Aquifer Recharge Element

Page 1, there were no comments.

Page 2, Ms. Santamaria commented on (c) under Policy 1101.2.1 the right reference for “Objective 1001.3” needs to be inserted or it needs to be eliminated. Ms. Love explained the old numbers that are highlighted serve as a reminder that those may need to be amended once everything is finalized. Ms. Curlee believes the “protection” in Objective 1101.2 needs to be more specific, such as the language that was deleted in that objective. Mr. Roberts explained

groundwater recharge does not occur in the Keys. Ms. Schemper pointed out the first objective in this section refers to the mainland and the second objective refers to the entire Monroe County. Ms. Santamaria confirmed for Ms. Newman the County's freshwater lens system has been mapped. Mr. Roberts further explained the groundwater recharge seen in the Keys is more maintaining salinity than it is a volumetric recharge. Policies and codes are in place to prohibit any impacts to freshwater systems. Ms. Santamaria will double-check with Kevin Wilson on this section. Mayor Neugent inquired into the possibility of transferring the sewer effluent that has been treated to freshwater standards to the freshwater lenses that exist in the Lower Keys. Mr. Roberts replied provided it meets the right treatment standards that would be an appropriate alternative using injection well technology. Mr. Roberts will discuss this option with Kevin Wilson. Mr. Harvey noted that Objective 202.11 referred to in (d) has been deleted.

Page 3, Ms. Curlee voiced concern that the interlocal agreements with the agencies listed have been deleted in Policy 1101.2.3. Ms. Sonneborn explained this was an old policy that has been completed. Ms. Newman questioned how freshwater lens recharge areas will be inventoried and given negative points in Policy 1101.2.5. Ms. Santamaria replied that sentence should be deleted since negative points are not assigned since the tier system has been adopted. Mr. Roberts clarified that the freshwater lens mapping data was used in the original adoption of the tier criteria in 2004 and 2005 and almost all of those areas are Tier I. Ms. Santamaria added freshwater wetlands are 100 percent open space so they cannot be developed.

Page 4, Ms. Sonneborn stated this page is all deleted. Ms. Curlee asked if there are freshwater wells still existing in the County. Mayor Neugent explained most were condemned after Hurricane Georges.

A lunch recess was held from 12:42 p.m. to 1:51 p.m.

Glossary (new)

Page 1, Mr. Roberts commented generally that a number of definitions reference "the local government" or "the local jurisdiction" and they should be replaced with "Monroe County." Ms. Newman recited Ms. Girard's suggestion that "Active Recreation" be defined here.

Page 2, Ms. Stankiewicz suggested defining "Adjusted Gross Income" and referencing it means the same as "Adjusted Household Income" and "s. 62" under "Adjusted Household Income" should be spelled out as "Section 62." Ms. Sonneborn will confer with Ms. Stankiewicz for clarification. Ms. Stankiewicz then commented that "Affordable Housing" should refer to the categories without the percentages. Ms. Love replied that language comes straight from the Florida Statutes. Mr. Roberts recommended for "Adaptation Action Area" the language "means one or more areas that are subject to coastal flooding" instead of "that experience coastal flooding," and at the end including "for the purpose of prioritizing adaptation planning" and deleting "the funding for infrastructure." Ms. Love replied again this is the Florida Statutes definition. Ms. Santamaria suggested deleting "or canal" from "Adjacent," and putting the "or" before "easement." Mr. Haberman commented the definition of "Administrative Relief" should not refer to code sections and should state "established in the Land Development Code." Ms. Kelsick questioned what "median income" means under "Affordable Housing." Ms. Love replied that, too, comes from the Florida Statutes. Mr. Haberman then suggested adding a

definition of “beekeeping,” which is included in “Agriculture,” but is a specific type of use in the code. Ms. Santamaria stated “by marketing or otherwise” within “Agriculture” broadens the definition to something very different. Ms. Schemper suggested taking out “or otherwise.” Mr. Williams noted that if the language comes from the Right to Farm Act in the statutes it has to remain. Ms. Love confirmed it did come from the statutes. Ms. Love then confirmed the definition of “Affected Persons” also came from the statutes.

Page 3, Mr. Harvey is concerned the definition of “Archeological or Historical Site or Property” is too vague. Mr. Haberman explained there are three separate archeological lists and the sites do not have to be on these lists. Ms. Schemper pointed out the definition itself uses the term “archeological.” Mr. Haberman suggested separating “Archeological” and “Historical.” Mr. Ortiz proposed the language “recognized by the Board of County Commissioners.” Ms. Schemper recommended leaving this definition for now because staff is looking into how the code deals with historical properties and she will get back to Keith & Schnars on this definition.

Page 4, Ms. Santamaria suggested adding a definition for “Built Environment.” Ms. Santamaria then stated “Buildable Area” should be “Buildable Acre.” Mr. Haberman proposed stating in the definition of “Buildable Area” “also referred to as Buildable Acres.” Mr. Haberman then proposed “Buildable Area means the portion of a parcel of land that is developable and is not required open space.” Mr. Roberts suggested deleting the second sentence of “Carbon Sequestration.” Ms. Newman commented that Ms. Girard wants the term “Bird Rookery” defined on this page.

Page 5, there were no comments.

Page 6, Ms. Schemper noted this is where “Detention” needs to be added. Ms. Love explained the definition of “Development” was a blend of state statutes and the County’s definition to cover everything. Mr. Roberts suggested removing “as defined by Section 380.04 FS” since it is not straight from the statute. Mr. Williams pointed out that citing the statutory definition can be problematic because if a statute is moved or renumbered it would take a comp plan amendment to correct it. Ms. Sonneborn stated direct references will be deleted and just the language “as defined by Florida Statutes” will remain.

Ms. Santamaria returned to Page 5 and stated the definition of “Community Character” is not measurable. Mr. Haberman added the definition of “Conditional Use” on Page 5 needs work or needs to be deleted because there is no such thing as a conditional use per se. Mr. Haberman recommended defining “Minor” and “Major” conditional uses, which already have definitions in the code. Ms. Santamaria agreed “Conditional Use” should be deleted. Ms. Newman commented a definition of “Community Character” should be defined because it is one of the guiding elements of the comp plan. Ms. Sonneborn stated she will work with Mr. Haberman further on “Community Character.” Ms. Love pointed out it is a difficult definition to come up with because each community is very different and it was kept broad enough to allow all of the Livable CommuniKeys Plans to survive in the definition.

Page 7, Ms. Newman asked where the definition for “Development” was from. Ms. Santamaria explained again it is mainly from the statute, but is blended with some additions relative to County code.

Page 8, Mr. Roberts noted that “Development Permit” uses “local government” and needs to be changed to “Monroe County.” Mr. Roberts then stated that “Disturbed Salt Marsh and Buttonwood Wetland Associations” should be “Association.” Mr. Roberts then questioned why “artificial mechanism” is included in the definition of “Dune.” Ms. Love believes that came from one of the State agencies. Mr. Roberts proposed the end of the sentence should read “deposited by any wind or ocean current.” Ms. Kelsick added the “artificial” is from the Beach Nourishment Program. Mr. Roberts will investigate further why “artificial mechanism” is included. Ms. Sonneborn will follow up with Mr. Roberts on this. Mr. Haberman noted that there is no such thing as a “zoning permit” in the definition of “Development Permit.” Mr. Roberts pointed out it looks like it came from House Bill 503. Mr. Haberman suggested using “plat approval” or “minor conditional use permit” or “major conditional use permit” in place of “zoning permit.”

Page 9, Ms. Santamaria commented “municipality” should not be referenced under “Future Land Use Map.” Mr. Roberts wants the definition of “Environmentally Sensitive Land” to be tightened up by stating “natural areas” in the first sentence as opposed to “areas” and adding a second sentence stating “Environmentally Sensitive Lands typically include wetlands and other surface waters, tropical hardwood hammocks and pinelands.” Ms. Santamaria asked about including two definitions, one as it relates to the tier system and one that does not. Mr. Roberts will work out the exception language. Mr. Ortiz questioned where the group of “three unrelated people” in the definition of “Family” came from. Ms. Santamaria explained staff was working off the varying APA definitions. Ms. Newman recited Ms. Girard’s desire to see “Floating Structure” defined. Mr. Williams again explained that the Supreme Court defined “Floating Structure” and that definition will be incorporated

Page 10, Mr. Haberman stated the definition of “Gross Acre” should include the language “also referred to as upland.” Mr. Haberman commented that the reference to “Chapter 146” under “Height” should be deleted. Ms. Schemper suggested defining “Upland” with the same definition as “Gross Acre.” Ms. Newman recited Ms. Girard’s comment that “Hardwood Hammock” should be defined for purposes of clearing to include new growth vegetation containing the majority of species that are typically found in hardwood hammock forests. Mr. Roberts replied the definition of “Native Upland Vegetation” incorporates that.

Page 11, Ms. Santamaria questioned whether “Housing Demand” and “Housing Need” were used in the comp plan. Ms. Love explained those are in the data and analysis. Ms. Santamaria suggested deleting those terms if they are not used in the comp plan. Mr. Haberman noted there is a need for a definition of “Immediate Vicinity” because it can mean different things to different people and it needs to be measurable. Mr. Williams asked Keith & Schnars to look and see what other municipalities use to try to get a statewide practice to rely on. Ms. Kelsick commented that the Housing element does talk about “affordable housing need” and maybe the definition of “Housing Need” should be revised for an “Affordable Housing” definition.

Page 12, Ms. Love noted this would be the page to add “Live-Aboard.” Mr. Haberman commented under the “Marina” definition “vessels or live-aboard vessels” should be “vessels and/or live-aboard vessels.” Ms. Sonneborn stated if this definition is not the same as the existing one for the County, there is going to be a discrepancy. Mr. Haberman replied the one the County has currently is not written well. Ms. Newman stated that Ms. Girard suggests that “Maintenance Dredging” be defined.

Page 13, Mr. Roberts commented under “Native Upland Vegetation” the words “dominate canopy” should be “dominant canopy.” Mr. Roberts suggested combining pineland and hammocks into one table, keeping the “Habitat” column. Ms. Stankiewicz explained how “Monthly Median Household Income” is calculated. Ms. Newman suggested the formatting under “Native Upland Vegetation” should be consistent on Pages 13, 14 and 15.

Page 14, Mr. Roberts stated the fourth species down the table should be “Saffron Plum”

Page 15, Mr. Roberts noted in the definition of “Natural Resources” the term “natural” is used and suggested deleting “natural” at the end of the sentence and leaving “and other environmental resources.” Ms. Santamaria commented that “Nonconforming Structure” and “Nonconforming Use” contains the language “existing on the effective date of the ordinance from which this chapter is derived,” which makes no sense in the Glossary section. Ms. Sonneborn will work further with staff on both of these definitions. Mr. Haberman stated the definition of “Open Space” is in complete conflict with the code, where it means it is how land is measured that is open to the sky. Mr. Haberman suggested having two definitions of “Open Space,” one in relation to recreation and one for the technical open space calculations. Ms. Sonneborn will work with staff on this further. Ms. Stankiewicz stated since ROGO was defined, “NROGO Subarea” should be defined. Mr. Haberman believes “Principal Use or Structure” is problematic when the two definitions are combined because a structure is not needed to be a principal use. Mr. Haberman suggested deleting “or Structure.” Ms. Newman stated Ms. Girard would like to see a definition of “Passive Recreation” as well as a definition of “Pineland.” Ms. Santamaria replied “Pineland” is captured under “Native Upland Vegetation.”

Page 16, Mr. Jones requested the definition of “Public Water Access” be reworked because access is not the facility, but a facility has access, and this definition does not capture all public water access. Mr. Haberman commented that it should be stated in very simple terms it is where people legally access the waters on public property. Ms. Sonneborn will work with staff on this definition. Ms. Santamaria then commented that “Recreational and Working Waterfronts” should be “Recreational and Commercial Working Waterfronts.” Mr. Jones suggested adding the phrase “as it may be amended” after the citation under “Recreational and Working Waterfronts.” Ms. Santamaria pointed out the language “as amended” would mean the comp plan automatically changes, which is not allowed. Mr. Williams recommended deleting the citation of the statute and just stating “as defined in Florida Statutes.” Mr. Williams then commented that the definition of “Vessel” will have to be consistent with the definition in the recent Supreme Court case, and the last sentence of “Recreational and Working Waterfronts” can be deleted. Mr. Jones pointed out if parts of this definition are being deleted the State definitions can no longer be cited. Ms. Sonneborn will work with staff further on this definition. Ms.

Newman added that Ms. Girard wants “Nesting Area” defined. Ms. Sonneborn will work with staff on that.

Page 17, Mr. Haberman noted the definition of “Redevelopment” is not inclusive enough. Ms. Sonneborn will work with Mr. Haberman further on this. Ms. Love asked whether “Room, Hotel or Motel” should state “as defined by Florida Statutes” and the actual reference be deleted. Mr. Williams confirmed that it should.

Page 18, there were no comments.

Page 19, Ms. Schemper questioned whether “Seasonal Residential Units” should be added here. Ms. Santamaria explained it is not necessary because it was discussed in the Future Land Use element and there is a definition in the code. Ms. Santamaria commented the term “armor” should be deleted from “Shoreline Stabilization.” Ms. Love will confer with Mr. Roberts whether the term “rip rap” should be deleted from this definition. Ms. Newman requested a definition for “Seaport” be added and asked for feedback on the “rip rap” decision when made. Mr. Harvey suggested using the word “Port” as opposed to “Seaport” because the County does not have a deep water port. Mr. Haberman recommended defining “Seaport” within the definition of “Port.”

Page 20, Mr. Harvey commented that the name of the agency under “State Land Planning Agency” should be generic in case there is a name change, necessitating a comp plan amendment. Ms. Santamaria noted because the State definition is not supposed to be modified it should state “State Land Planning Agency means the Department of Economic Opportunity, formerly the Department of Community Affairs.” Mr. Haberman confirmed for Ms. Sonneborn the definition of “Subdivision” is needed in the Glossary and suggested adding a definition of “Plat” separately as being “an official subdivision approved by the Board of County Commissioners.” Mr. Schwab commented that something needs to be added to the definition of “Structure” to allow for some flexibility in what is allowed in a setback. Mr. Haberman explained it should be anything that requires a building permit, although the working has to be worked out. Ms. Love pointed out Keith & Schnars dealt with this issue when doing an LDR update for Marathon and will send staff the revision used as an example of possible language. Mr. Jones questioned whether “Structure” includes things associated with a parcel of land such as a dock. Ms. Sonneborn will work with staff on this. Mr. Schwab then noted “local government with jurisdiction” under “Submerged Land” should be changed to “Monroe County.” Ms. Santamaria commented in that same definition at the end it says “may be included in the computation of net land area,” but “net land area” was never defined. Mr. Haberman suggested deleting the language from “and thus” to the end of the sentence. Mr. Williams confirmed for Ms. Santamaria that the reference to the Federal cite in “Threatened and Endangered Species” should be deleted.

Page 21, Ms. Love confirmed for Mr. Jones the definition of “Water-Dependent Use” came from the statute. Mr. Harvey added that a definition for “Vessel” will be added here based on the current court ruling.

Page 22, Ms. Love confirmed that the definition of “Wetlands” is from Florida Statutes. Ms. Santamaria pointed out that a beginning parenthesis needs to be added before “Florida Keys” in the last sentence since this is an add-on to the definition. Ms. Sonneborn noted the comma at the end of the definition needs to be changed to a period. Ms. Stankiewicz questioned where the “140 percent” came from under “Workforce Housing.” Ms. Love noted throughout the technical document workforce housing was 100 percent and it is not appearing in the comp plan, so it may be appropriate to delete the entire definition because it came from the technical document. Mr. Haberman agreed it should be deleted because it is not used in the code at all.

A recess was held from 3:17 p.m. to 3:45 p.m.

Future Land Use Element

Page 34, Ms. Santamaria commented that “cactus hammock and palm hammock” should not be deleted from Policy 101.4.22. Ms. Santamaria will check the technical document to clarify for Ms. Jetton if the 7500 square feet clearing applies to this habitat. Ms. Girard voiced concern of new growth not being protected. Ms. Jetton pointed out that regrowth is addressed in the code. Ms. Hurley suggested specifying mature and new growth in the definition of “Upland Native Vegetation.” Ms. Hurley then pointed out “upland native vegetative area” in the “Permitted Clearing” table should be “upland native vegetation area.” Ms. Hurley proposed deleting the reference to hardwood hammock, etc. in parenthesis since that is contained in the definition of “Native Upland Vegetation.” Ms. Santamaria pointed out that cactus hammock and palm hammock are not included. Ms. Sonneborn will work with staff on the definition.

Page 35, Mr. Haberman pointed out that in the second sentence of Policy 101.4.24 “legally” should be replaced with “lawfully established.” Ms. Hurley questioned whether the word “exist” on the second line of that same policy is supposed to mean existed in 1992. Mr. Haberman explained this policy is a density policy, not a ROGO exemption policy. Ms. Santamaria confirmed for Ms. Hurley the definitions in Policy 101.4.25 match the code.

Page 36, Ms. Santamaria commented Policy 101.5X should be moved to Page 25 after Policy 101.4.5. Ms. Jetton commented that the exception for wind turbines in Policy 101.4.25 may need a provision added to warn birds away from them. Mr. Haberman stated a general policy on wind turbines is needed. Ms. Hurley described a wind turbine pilot project occurring on a utility site in the Lower Keys.

Page 37, Ms. Stankiewicz commented that in Policy 101.5.2 where it talks about number of allocations that may be awarded the word “each” needs to be reinserted to indicate both the Upper and Lower ROGO Sub-areas receive three allocations. Ms. Girard suggested adding the language “and discourage development from inappropriate locations” to the last sentence of Policy 101.5.2.

Page 38, Ms. Hurley questioned why the “will result in” or “will not result in” language is being deleted from the “Criteria” table in Policy 101.5.4. Ms. Stankiewicz explained Tier III is not related to clearing. Ms. Stankiewicz then suggested separating the Tier Designation table into two tables, “outside of Big Pine” and “within Big Pine.” Ms. Hurley agreed. Ms. Girard suggested giving negative points for inappropriate areas. Ms. Santamaria explained when the

tier system was developed it was assumed most CBRS areas would be designated Tier I and negative points were taken away, but the BOCC is going to be discussing an alternative of negative points for CBRS. Ms. Girard commented offshore islands are being dealt with only within the tier system and are being treated the same as any Tier I property. Ms. Santamaria replied there are a lot of restrictions on development of an offshore island outside of the tier system.

Pages 39 and 40, there were no comments.

Page 41, Ms. Santamaria questioned whether the “Exception” at the bottom of the table should remain. Ms. Jetton and Ms. Hurley agreed that exception is not needed any longer. The “Point Assignment” was discussed. Ms. Hurley wants to look into including in this table points for Tier I lots on Big Pine because lot aggregation needs to be encouraged. Ms. Hurley commented if an amendment is made to the way points work there will have to be a date certain when everything is rescored. Ms. Santamaria agreed that at the beginning of Policy 101.5.4 language should be added to state “For all applications received in the residential permit allocation system after” whatever date “the following applies.” Ms. Hurley then suggested the policy should include a requirement that any lot aggregated has to have a deed restriction or a conservation easement and they are not allowed clearing. Ms. Hurley asked Mr. Williams to help with language requiring a unity of title.

Page 42, there were no comments.

Page 43, Ms. Jetton questioned why residential low lots were deleted from getting points. Ms. Santamaria pointed out the second criteria block retains “residential low.” Mr. Haberman explained that this clarified native areas and urban residential should not be treated the same. Ms. Jetton commented there is an internal inconsistency in the fact it says “containing sufficient upland area to be buildable” because RL lots 5,000 square feet are not big enough to be buildable. Ms. Santamaria pointed out in the ROGO section there is a provision that talks about sufficient buildable areas 2,000 square feet. Ms. Santamaria suggested the language “containing 2,000 square feet of uplands.” Ms. Santamaria will provide language.

Page 44, there were no comments.

Page 45, Ms. Stankiewicz suggested reworking the “Central Wastewater” to make it easier to define against the points. Ms. Santamaria explained that Kevin Wilson suggested taking BAT out and leaving AWT and the point scores are about central wastewater system availability, not about an on-site system. Ms. Hurley replied that is because this is a new requirement. Ms. Santamaria suggested having two scores, one for central and one for best available on-site. Ms. Jetton questioned why extra points would be given for an on-site system if the County is trying to guide development toward areas with infrastructure. Ms. Hurley then agreed that BAT should be deleted. Ms. Santamaria noted that the definition of “Availability” is “as existing adjacent to the dwelling unit” and discussed situations where the collection line is not adjacent to the dwelling unit. Ms. Santamaria will work on this language so everybody can get points.

Page 46, the “Point Assignment” table was discussed. Ms. Jetton feels this table gives too many points and proposed giving one point for each criterion. Ms. Santamaria questioned who would review for “standards of a sustainable building rating or national model green building code” as listed in the first criterion. Ms. Hurley stated the plans can be certified. Ms. Love added a specific certification should not be put in, but left to be general. Ms. Santamaria recited a comment by Alicia Putney that she would suggest the solar item includes installation of a photovoltaic system, a minimum of 3KW in size or the equivalent in other renewable energy systems. Ms. Sonneborn will discuss that request with Erin Deady. There was discussion relating to consequences of removing conservation applications after receiving points for them. Mr. Haberman suggested putting a time that these applications have to remain in the dwelling unit. Ms. Jetton proposed adding “The systems must be maintained for a minimum of five years unless replaced with a system that provides a functional equivalent energy savings.” Ms. Love suggested considering some type of restrictive covenant that can be used for this. Mr. Ortiz noted how a property owner could turn off their conservation applications after receiving their CO. Ms. Hurley stated more discussion is needed on enforcement of this proposed language. Ms. Hurley asked why perseverance points were capped at four years. Ms. Stankiewicz replied that came with the tier system. Ms. Jetton will confer with Laura Lee, who wrote this. Mr. Haberman pointed out that not giving an incentive to stay in the tier system could lead to more administrative relief applications. Mr. Haberman suggested not capping perseverance points, but giving one point a year. Ms. Jetton will look into the history of the “Perseverance Points” language.

Page 47, Ms. Stankiewicz again suggested making two tables for the Tier Designation, one for Big Pine and one without. Ms. Santamaria questioned whether the “Exception” at the bottom of the table is necessary. Ms. Stankiewicz explained that is an incentive to an existing business to expand versus brand new development. Ms. Hurley noted if the NROGO ordinance is passed this exception is not needed. Mr. Haberman suggested giving a certain amount of a point to any existing business that would not do any additional clearing regardless of its tier. Ms. Hurley and Ms. Jetton agreed. Ms. Sonneborn will wait for staff to propose new language. Ms. Girard asked staff to consider whether the existing business is in any area that the County would not want to expand. Ms. Santamaria proposed adding the language “Four points for lawfully established existing business in any category.”

Page 48, Ms. Stankiewicz questioned why the set number of years was deleted from “Intensity Reduction.” Ms. Hurley proposed eliminating the “Intensity Reduction” because it is counterproductive and encourages urban sprawl. Mr. Haberman suggested rewarding people that build smaller buildings. Ms. Hurley pointed out di minimus will be available for small buildings. Mr. Haberman noted di minimus will only be available as long as the bank has the square footage available. Staff will discuss this further.

It was agreed to continue the Future Land Use element discussion to the March 26, 2013 DRC meeting, starting at 10:00 a.m. Ms. Creech will advertise the meeting for 10:00 a.m.

ADJOURNMENT

The Development Review Committee meeting was adjourned at 5:00 p.m.