

**PAT 96-37
BoCC SPONSORED
EAR ADDENDUM AMENDMENT
TO THE**

LEE COUNTY COMPREHENSIVE PLAN

THE LEE PLAN

BoCC Adoption Document

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June 3, 1998

**LEE COUNTY
DIVISION OF PLANNING
STAFF REPORT FOR
COMPREHENSIVE PLAN AMENDMENT
PAT 96-37**

T	This Document Contains the Following Reviews:
T	Staff Review
T	Local Planning Agency Review and Recommendation
T	Board of County Commissioners Hearing for Transmittal
T	Staff Response to the DCA Objections, Recommendations, and Comments (ORC) Report
T	Board of County Commissioners Hearing for Adoption

STAFF REPORT PREPARATION DATE: October 27, 1997

PART I - BACKGROUND AND STAFF RECOMMENDATION

A. SUMMARY OF APPLICATION

1. APPLICANT:

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
REPRESENTED BY LEE COUNTY DIVISION OF PLANNING

2. REQUEST:

Amend the Conservation and Coastal Management Element, Objective 77.7 and Policy 77.7.2 to change the completion date for manatee protection plans.

B. BACKGROUND INFORMATION

The 1996 Evaluation and Appraisal Report Addendum presented the following scheduled manatee protection and management activities:

1. By 1996, FDEP will adopt a state rule which establishes speed zones to all potentially dangerous areas in Lee County. Objective 77.7 and its policies should be revised to reflect the new speed zones.

2. By 2000, the SWRPC's marina siting plan will be incorporated into the Lee County Manatee Protection Plan. This action will further Policies 77.7.5 and 77.7.6. Appropriate revisions should be made at that time. (NOTE: This recommendation is not applicable to this plan amendment.)

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION:

Planning staff recommends that the Conservation and Coastal Management Element Objective 77.7 and Policy 77.7.2 be revised as follows:

OBJECTIVE 77.7: WEST INDIAN MANATEES. Minimize injuries and mortality of manatees to maintain the existing population by encouraging the adoption by the state of Florida and local governments of regulations to protect the West Indian Manatee in the Caloosahatchee and elsewhere in Lee County. By 1995, manatee ~~management~~ protection plans will be prepared for other waters of Lee County also frequented by manatees. (Amended by Ordinance No. 94-30)

POLICY 77.7.2: Identify areas of greatest actual or potential boat/barge mortality and/or injury by 1995, and re-evaluate existing slow or idle speed zones. (Amended by Ordinance No. 94-30)

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

This amendment was initiated by the Evaluation and Appraisal Report Addendum Report as adopted by the Board of County Commissioners on February 1, 1996.

The previously anticipated completion date of 1995 was based on the assumption that the controversy over the Florida Department of Environmental Protection (FDEP) manatee protection plan would be resolved in 1995. As discussed in Part II - Staff Analysis, FDEP is continuing to work on this plan. Barring legal challenges, it is now expected that new speed zones will be in effect by 1998.

The change in wording from "management" to "protection" is proposed because FDEP's plan is a protection plan, not a management plan.

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

Following is a chronology of actions taken to implement Objective 77.7 and Policy 77.7.2:

- * In 1994, FDEP proposed expanded boater speed zones for manatee protection in Lee County.
- * In March 1994, the Lee County Division of Natural Resources Management (DNRM) held 27 public workshops to gain citizen input on the FDEP manatee protection plan. Using local comments, the DNRM proposed less restrictive boater speed zones than the FDEP proposal, but more restrictive

than existing zones. The Lee County Board of County Commissioners did not officially adopt the LCDNRM's proposal, but agreed to submit it for consideration by FDEP.

- * In April and May of 1995, FDEP proposed its final manatee protection plan and conducted a final local public hearing. During the time the EAR Update was being prepared, Lee County and FDEP were working toward a negotiated settlement to modify the FDEP plan. At that time, it was expected that all legal challenges would be completed by the end of 1995, and that FDEP would adopt new boater speed zones in Lee County by early 1996.
- * In September 1995, a Florida Administrative Hearing was conducted on the FDEP plan. The Florida Department of Administrative Hearings issued a final order on June 18, 1996 which overturned the proposed boater speed zones. After the Administrative Hearing, FDEP re-evaluated all public input and reformulated revised speed zones.
- * Currently, FDEP is in the process of gathering economic impact information and is expected to schedule a rulemaking hearing around the end of the summer of 1997. Barring legal challenges, the new FDEP speed zones should be enacted by early 1998.

B. CONCLUSIONS

The 1995 target deadline for the preparation of a manatee protection plan should be changed to 1998.

C. STAFF RECOMMENDATION

Staff recommends that the target date of 1995 be revised to 1998. In the last sentence of Objective 77.7, the word "management" is incorrect and should be changed to "protection".

**PART III - LOCAL PLANNING AGENCY
REVIEW AND RECOMMENDATION**

DATE OF PUBLIC HEARING: June 12, 1997

A. LOCAL PLANNING AGENCY REVIEW

No one from the public commented on the amendment and the LPA had no discussion.

**B. LOCAL PLANNING AGENCY RECOMMENDATION AND FINDINGS OF FACT
SUMMARY**

1. **RECOMMENDATION:** The LPA recommends that the Board of County Commissioners transmit this amendment.

2. **BASIS AND RECOMMENDED FINDINGS OF FACT:** The LPA accepted the findings of fact as advanced by the staff.

C. VOTE:

CARRON DAY	ABSENT
RICHARD DURLING	AYE
EARL HAMILTON	AYE
RONALD INGE	AYE
BILL SPIKOWSKI	AYE
GREG STUART	AYE
MATT UHLE	AYE

**PART IV - BOARD OF COUNTY COMMISSIONERS
HEARING FOR TRANSMITTAL OF PROPOSED AMENDMENT**

DATE OF TRANSMITTAL HEARING: November 5, 1997

A. BOARD REVIEW: There was no public testimony or Board discussion on this plan amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board approved the transmittal of this plan amendment to DCA.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board concurred with the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	AYE _____
ANDREW COY	AYE _____
RAY JUDAH	AYE _____
JOHN MANNING	AYE _____
DOUG ST. CERNY	AYE _____

**PART V - DEPARTMENT OF COMMUNITY AFFAIRS
OBJECTIONS, RECOMMENDATIONS, AND COMMENTS (ORC) REPORT**

DATE OF ORC REPORT: February 5, 1998

A. DCA OBJECTIONS, RECOMMENDATIONS AND COMMENTS

The DCA had no objections, recommendations, or comments concerning this amendment.

B. STAFF RECOMMENDATION

Adopt the amendment as transmitted.

**PART VI - BOARD OF COUNTY COMMISSIONERS
HEARING FOR ADOPTION OF PROPOSED AMENDMENT**

DATE OF ADOPTION HEARING: May 27, 1998

A. BOARD REVIEW: The Board provided no discussion on this amendment. This item was approved on the consent agenda.

B. BOARD ACTION AND FINDINGS OF FACT SUMMARY:

1. BOARD ACTION: The Board voted to adopt this amendment.

2. BASIS AND RECOMMENDED FINDINGS OF FACT: The Board accepted the findings of fact as advanced by staff.

C. VOTE:

JOHN ALBION	AYE
ANDREW COY	AYE
RAY JUDAH	AYE
JOHN MANNING	AYE
DOUG ST. CERNY	ABSENT