

**PAT 96-41
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 96-41**

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

ORIGINAL 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 Policy 94.1.2 to indicate Lee County's support of and participation with the West Coast Inland Navigation District in dredge spoil disposal.

B. BACKGROUND INFORMATION

1. CURRENT LEE PLAN TEXT (1994 Lee Plan - 1996 Codification):

IX. Ports, Aviation, and Related Facilities Element - Objective 94.1 and Associated Policies

***OBJECTIVE 94.1: CHANNEL DREDGING.** The county shall maintain the support facility and service systems of existing ports. (Amended by Ordinance No. 94-30)*

***POLICY 94.1.1:** The county shall monitor the maintenance of support facility and service systems of existing ports, with responsibility for:*

C Coordination between the U.S. Army Corps of Engineers and Lee County on the timing of maintenance dredging on federally maintained channels.

- C *Coordination with the U.S. Army Corps of Engineers on the location and placement of the spoil material that result from maintenance dredging activities, with use of this material for beach renourishment where needed and financially feasible.*
- C *Assessing the possibility of instituting a private channel maintenance assessment on properties benefiting from the channels.*

POLICY 94.1.2: *The county shall identify existing and future dredge spoil sites in Lee Plan amendments based on the data and analysis in its 1996 addendum by the date required by law. (Amended by Ordinance No. 94-30)*

2. 1996 EAR ADDENDUM

The 1995 EAR Update Addendum section of the above report presented the following discussion of legislative changes pertaining to Dredge Spoil Disposal (Pg. 58-59):

“Section 163.3178 Florida Statutes (F.S.) - Coastal Management, requires each local government in the coastal area “which has spoil disposal responsibilities” to provide for or identify disposal sites for dredged materials...” The Department of Community Affairs, in its June 1995 Community Planning newsletter, explained the criteria for determining who has dredge spoil responsibilities. The newsletter states that “only those local governments that have a formal or informal commitment to be responsible for the disposal of spoil material would be affected by this legislation...Ports, deep water ports or other entities that undertake dredging operations and are agencies of local government may also cause a local government to have dredge spoil disposal responsibilities.

Although Lee County has undertaken, or assisted in, dredging operations at various times, the West Coast Inland Navigation District (WCIND) is considered to be the lead agency for the development of long range plans for dredge spoil sites and maintenance of the Intracoastal Waterway (Section 374.975, F.S.). In 1995, the WCIND adopted a resolution which requests local governments within the jurisdiction of the WCIND to coordinate with and to provide support to the WCIND in the planning and implementation of a regional dredge spoil management plan, including spoil islands and potential bay restoration projects (Resolution 95-5). The Lee Plan should be revised to include a policy that Lee County will participate with and provide support to the WCIND in this endeavor (Objective 94.1).”

C. STAFF RECOMMENDATION AND FINDINGS OF FACT SUMMARY

1. RECOMMENDATION: Amend Policy 94.1.2 as follows:

POLICY 94.1.2: The county shall participate in and coordinate with the efforts of the West Coast Inland Navigation District to identify existing and future dredge spoil sites in Lee Plan amendments based on the data and analysis in its 1996 addendum by the date required by law County.

2. BASIS AND RECOMMENDED FINDINGS OF FACT:

- a.** Lee County has an informal commitment to be responsible for the disposal of spoil material because it has participated in dredge spoil disposal projects.
- b.** Florida Statutes requires Lee County, as a local government with spoil disposal responsibilities, to provide for or identify disposal sites for dredged materials.
- c.** In 1995, the WCIND adopted a resolution which requests local governments within the jurisdiction of the WCIND to coordinate with and to provide support to the WCIND in the planning and implementation of a regional dredge spoil management plan, including spoil islands and potential bay restoration projects (Resolution 95-5). A copy of Resolution 95-5, along with Lee County's response is attached (Attachment 1).
- d.** Although Lee County has undertaken, or assisted in, dredging operations at various times, the West Coast Inland Navigation District (WCIND) is considered to be the lead agency for the development of long range plans for dredge spoil sites. Pursuant to Resolution 95-5, Lee County should coordinate with and provide support to the WCIND in the planning and implementation of a regional dredge spoil management plan, including spoil islands and potential bay restoration projects

PART II - STAFF ANALYSIS

A. STAFF DISCUSSION

- 1.** After the 1994 EAR was adopted, Section 163.3178 Florida Statutes (F.S.) was amended to require each local government in the coastal area “which has spoil disposal responsibilities” to provide for or identify disposal sites for dredged materials.
- 2.** The West Coast Inland Navigation District (WCIND) is responsible for the development of long range plans for dredge spoil sites and maintenance of the Intracoastal Waterway (Section 374.975, F.S.). restoration projects (Resolution 95-5). Lee County is within the WCIND boundaries.
- 3.** Lee County has been the lead agency on several dredge projects on waterways other than the Intracoastal Waterway. According to criteria published by the Florida Department of Community Affairs in its June 1995 Community Planning newsletter, Lee County would be considered to have spoil disposal responsibilities.

B. CONCLUSIONS

Although Lee County has some dredge spoil disposal responsibilities, the WCIND is the lead agency for coordinating dredge spoil disposal activities within its district boundaries.

C. STAFF RECOMMENDATION

Amend Policy 94.1.2 to indicate that the WCIND is the lead agency for coordinating dredge spoil disposal activities within its district boundaries, and that Lee County will participate and coordinate with the WCIND in the identification of dredge spoil disposal sites for both the Intracoastal Waterway and for other waterway dredge projects in Lee County.

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

DATE OF PUBLIC HEARING: May 29th, 1997

A. LOCAL PLANNING AGENCY REVIEW

No one from the public commented on the amendment. One LPA member asked if there would be financial benefits from this amendment. Staff replied that there would be financial benefits.

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 advance by the staff.

C. VOTE:

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

**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.

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