

**MINUTES**  
**P&Z WORKSHOP**  
**THURSDAY**  
**DECEMBER 9, 2010 6:00 PM**

**PRESENT:**

Diane Sheffield – Chair  
Larry Ganus – Vice Chair  
Mari VanLandingham  
David Tranchand  
Dr. Tony Arnold  
Ed Allen  
Dr. Gail Bridges-Bright  
Frank Rowan  
Isaac Simmons, School Bd. Rep

**ABSENT:**

Willard Rudd  
Catherine Robinson  
Alonzo McBride

**Staff Present:**

David Weiss, Asst. Co. Attorney  
Anthony Matheny, Growth Mgt. Director  
Jean Chesser, Deputy Clerk

Chair Sheffield called the meeting to order at 6:00 PM with a quorum present and led in the Pledge of Allegiance to the U.S. Flag.

Each member present stated his/her name for the record.

Declarations of Conflict: Commissioner Ganus said he had received a phone call from BASF.

Chair Sheffield turned the meeting over to Mr. Matheny and he said tonight's meeting is a workshop – not a public hearing; the meeting on Monday night will be the public hearing and the Commission will vote on the Conservation and Future Land Use Elements at that time.

Commissioner VanLandingham asked if Mr. Matheny was saying they could not take public comments tonight and he responded that was up to the Commission and the Chair, that they don't have to have it but they can if they want to. Mr. Matheny then turned the presentation over to Ms. Pennington and she explained the County has a COMP Plan and the State requires every 7 years that the COMP Plan be re-evaluated – EAR Report – which is evaluation and recommendation, EAR Based Amendments to see where the COMP Plan is improving and/or failing and where it needs changes to be an effective COMP Plan. She explained six elements have already been reviewed and approved by the Commission which leaves only the Conservation and Future Land Use Elements for final review and recommendations. She said the Commission will vote on the final recommendations for these two elements next Monday night and that will then be forwarded to the Board of County Commissioners for their review and consideration. She said the Board of County Commissioners will then approve some form (either as the P&Z Commission has recommended or with additional changes by the BOCC) and submit it to DCA. DCA will have 60 days to review the changes the County is proposing and will issue their ORC (Objections, Recommendations & Comments) Report to the County. The County will then have another 60 days to respond to any changes that DCA made or to list any objections that they have. Then, at that point it will come back to the BOCC for final approval and adoption of the EAR Based Amendments to the Comprehensive Plan. Ms. Pennington proceeded to discuss changes that she has made since August, which draft copy the Commission should have before them tonight dated 10/21/10, etc. and there was concern expressed because the Commission has received several (three or four) copies dated 10/21/10 and they have had mistakes, pages left out, changes not made, etc., and their difficulty in knowing which draft/version is actually the correct one to follow tonight.

Ms. Pennington responded it was her understanding there had been a mistake made in the copying of the report for the Commission, but that she had been assured it had been corrected and the copy the Commission received yesterday is the correct one for tonight's meeting. She said "Now the one that you received without the page is the current one, it just happened to be incomplete. We didn't make any changes".

Commissioner VanLandingham asked to address the Commission and said "I was just wondering, I know we have a couple of new guys on here but basically for those of you that have been with us throughout this lengthy process if any of you are uncomfortable with the way this has been proceeding over the last few months?"

Commissioner Allen responded "I have never seen a more discombobulated piece of paperwork in all of my life. I have been involved in business all of my life and if I ran something like this, I would have been fired in the first three weeks."

Commissioner VanLandingham "Anybody else? "

Chair Sheffield "well, I don't really agree."

Commissioner VanLandingham "Everybody is comfortable with the way it's been going?"

Chair Sheffield "Yeah."

Commissioner Ganus "I'm not totally comfortable with it. Even the copies that we got—I went back and compared the original 10/21 version of the two elements and there's things in it that are not highlighted in red that are obviously changes. They're underlined or struck through but they are not high-

lighted in red and we've got a color coding problem again and I'm not sure -- I wanted to make a change to the agenda tonight to add something to the agenda but I didn't get the opportunity at the beginning of the meeting, but after reading the Rules and Procedures for meetings of the Board of County Commissioners – and Jean am I correct that we operate under the same rules?"

Deputy Clerk "That is correct. Basically we are under the same rules as the Board of County Commissioners."

Commissioner Ganus "There are some things that I learned by reading this that I didn't know and I think need to be brought out before we have our meeting tonight. I know there's something on the agenda for Monday night's meeting that says we will also have a short discussion regarding the makeup and the rules and procedures for the Planning Commission and I'm guessing that that entails this set of rules governing the meetings of the County Commissioners which we fall under; for instance, there's a part in here that addressed citizen input and that's been a question throughout all of our workshops – do we or don't we – and we've been pushed to not do it, but I see from the stack of printed input that we have from the interested parties; most of whom are in the audience tonight, there's a lot of input that should have been done, in my opinion that has not been done. There's a whole different outlook and picture from these people that want to give input that have been stymied and have not been able to. Come Monday night, though that flood gate is going to be opened and we're going to be inundated with all of this input that we could have gathered all of the way along in our meetings and not have it all come at one time. It says under Citizen Input addressing the County Commission – **Item D – Public Input at Workshops** – and although this is limited it says '10 minutes shall be allotted at the beginning of Commission workshops for public comments. Each person who addresses the Commission shall complete a citizen's input card and submit the card to the receptionist or the Chairman. The remarks of each speaker shall be limited to no more than three minutes.' So there is a process and procedure there for allowing public input at workshop meetings which we have not allowed at all."

Chair Sheffield "Well we have, yeah we did."

Commissioner VanLandingham "Not to the end, and it's been stymied."

Commissioner Ganus "Yeah, one time – one time, but I see a lot of input sitting out in the audience that has not been allowed to happen."

Chair Sheffield "Well at the last couple of meetings, or at least the workshop I think most of the public input would have been concerning the Conservation Element and the Future Land Use Element so I don't think we would have had any comments on the other elements that we were talking about."

Commissioner Ganus "Well are we going to tonight?"

Chair Sheffield "Well, my thinking was let's go through our business and then at the end of the meeting take public comment, yeah. Now that's what I had thought to do but if ya'll want to do something different –"

Commissioner VanLandingham "May I finish expressing my concerns? Not to carry us back two years, but there's been a lot of confusion since we started this process. We've had three planning directors, we've had two consulting firms – the last few months there seems to have been a rush to get it done, get it done, and get it done. I don't feel like I'm getting my packets in a timely manner. I just got some

revisions or the missing pages from the FLUM today and I did not have time to read it prior to this meeting. That's what we're supposed to be having a workshop on tonight so is it fair for the public to have to wait while we sift through this tonight at a workshop?"

Chair Sheffield "Now we got our original packet ten days ago?"

Mr. Matheny "I don't remember but it was in a timely manner".

Chair Sheffield "Yeah --weeks ago and it wasn't until yesterday when Larry noticed there were some pages missing. So, I guess if you had been looking at it when you first got it you would have known --"

Commissioner VanLandingham "Which I did, which I did Diane and I guess what I'm trying to say is there have been so many -- it's like Larry said when he came in, we've got three different FLUMs now -- which one are we looking at tonight? Let's make sure we are all on the same page because this thing is very confusing and very disjointed and haphazard."

Chair Sheffield "Well I will have to admit I did not compare this version with the one from -- and I don't know if there are some missing red letters or not.--"

Commissioner VanLandingham "And that was going to be my next question because I personally do not feel comfortable voting on anything that I have not had time to review."

Chair Sheffield "But we are not going to be voting tonight."

Commissioner VanLandingham "I know; but are you going to tell me that between tonight and Monday night we're going to get another package with these changes or these recommendations from this workshop and so will we then have another 24 or 48 hours to review that before we vote on it on Monday night?"

Chair Sheffield "That's a question for Anthony."

Mr. Matheny "Actually you've had the Future Land Use Element and the Conservation Element which has not changed since October 21<sup>st</sup>. The package you got back then."

Commissioner VanLandingham "Then why do we keep getting these --"

Mr. Matheny "I do it out of a courtesy because I don't expect anyone to -- a lot of times any Planning Commissioner or any County Commissioner anywhere -- people forget to bring what you gave them a month or two ago, so as a courtesy we give you multiple copies so it's the same thing that I explained in my letter that you were getting the same thing when I gave you-- with the second set of copies."

Commissioner VanLandingham "I guess that my problem is that every time I get one of these I feel like I'm having to go back and compare it to the last one to see what changes have been made. I think I'm getting a new one with new changes in it. Do you (Commissioner Ganus) have that problem as well?"

Commissioner Ganus "I do it every time."

Ms. Pennington "The draft dated 10/21 has not changed. That draft has not changed."

Commissioner VanLandingham “Ok, but I just don’t understand the need for all of this paper.”

Mr. Matheny “Well, in the future we don’t have to do that.”

Ms. Pennington “They’re all of the comments that have been received and you have not approved yet – it has not been discussed for me to go and make the changes so we’re giving you the comments so that tonight in this workshop you review the comments and then you tell us ‘yes we want to make that change’ and I will go and make that change.”

Commissioner VanLandingham “So we do all of these changes that we have tonight and –”

Ms. Pennington “Yes and I have agreed to work straight through the weekend and I have to have everybody’s draft for you on Monday.”

Commissioner VanLandingham “And then we have less than 24 hours to review it and make sure that you have done the changes as we’ve directed.”

Ms. Pennington “Yes and that was the result of delaying the workshop until December 9<sup>th</sup>, and trying to work with the deadline and making the public hearing on the 13<sup>th</sup> and I committed that I would do it. Whatever changes you agree tonight and I am going to make them there.”

Commissioner VanLandingham “But then we won’t have more than 24 hours to review it, right?”

Ms. Pennington “—Well, hopefully the change will be ‘put that policy or don’t put that policy. I am not creating new policies, I am adding what you tell me to add or I will delete what you tell me to delete; so that’s the reason I felt I could get it done.”

Commissioner Allen “Well, I have a question. Who establishes these deadlines – first we had a deadline of November 2<sup>nd</sup> --?”

Ms. Pennington “The EAR Based Amendments has to be adopted by Statute within 12 or maybe 18 months.”

Commissioner Allen “But it is 18 months which is May 2, is that correct?”

Ms. Pennington “No, it is March. March is when would be the 18 months. Long ago it was already decided that we were not going to meet that deadline but we wanted to keep moving. We are not going to meet that deadline because the two special area plans have been delayed. So, we’re trying to get the ear based amendments done quickly and that’s why we’re doing these two workshops in December – or the workshop and the public hearing; correct Anthony?”

Mr. Matheny “Right, let me add a little bit to that Commissioners. What we decided on and the reason – as you will recall at the last meeting or the meeting before that, we decided to do it this way – to have a workshop tonight and turn around real quick and have a public hearing. If you – first of all if you decide, like Marina was saying that tonight you get everything worked out – the public hearing, other than taking public comments that night – and you can take whatever public comments you want tonight as you’ve done before – I said it’s not required, but Larry has found something different, but I’m going

by what I've been told coming in and what historically has been done and whether that's exactly right, I'm not going to tell you. I haven't been here long enough to know exactly what has been going on in the past – I'm doing the best I can based on what I've been told the way it's been done. But, you have taken public comments before on two or three different occasions. You can take it tonight until midnight if you so desire. You can take it Monday as long as you want to. Now what we've done and I agree it is confusing when you keep getting a lot of paperwork but that was more of me thinking 'well, in case you misplaced or don't have your old copy let me give you another copy, but I can if –'

Commissioner VanLandingham "That may be what everybody else wants, but I just thought every time I was getting a copy I was getting something with changes in it and I was reading word for word."

Mr. Matheny "Right and maybe one of the things that may be helpful going forward on that – and I will be happy to talk to any of you that call me at any time, if you want to e-mail me or call me when you get your packets and you say 'I have a question about that package' – go ahead and call me or e-mail me and I will be happy to spend time with you and explain – it doesn't bother me at all. Another thing, Ed you had asked something and I was going to respond to it. What were you –"

Commissioner Allen "The repeal ordinances – they were not in the second packet we received but they were in the first packet we received."

Mr. Matheny "Well I explained that to you that you've got everything and that's what counts. The –"

Commissioner Allen "But I don't know that everybody brought their first packet with them."

Commissioner VanLandingham "See, it's so confusing. One packet has everything, some packets don't – I mean --"

Mr. Matheny "Well, these two packets have the two elements. They both have the same exact elements and I think I put in my letter 'I'm just including them again as a courtesy'. It's also a kind of –"

Commissioner VanLandingham "No. No, it says a second copy is being provided because in our original packet only the odd numbered pages of the FLUE were included."

Mr. Matheny "Well, yeah, correct, right and in this instance a corrected copy but it's no different than what you got on October 21. Nothing has changed. No substance has been changed."

Chair Sheffield "So really the one we got that was missing the even pages, we really didn't need that copy because we already had it."

Mr. Matheny "If you had brought the ones that you had gotten before then you were good to go but I was just trying to give you an extra copy is all I was trying to do. Now the printer printed out incorrectly that day and that's our fault and we didn't see it."

Chair Sheffield "And that's why I missed it too because I had been working off of my old copy so –"

Commissioner Ganus "But what about the difference in the color coding on it. The parts that were in red – that part of them are not – some of them are and we're likely to miss things by that being changed."

Chair Sheffield "I didn't notice that."

Commissioner VanLandingham "That's what I'm trying to get to that my bottom line is. I would like to see a package with all of our changes to review prior to voting. I don't feel comfortable voting on something that has been this 'discombobulated' down the line, for lack of a better word –

Chair Sheffield "What would be your suggestion at this point?"

Commissioner VanLandingham "That we slow down; that we don't try to necessarily make this have to be done by December 13<sup>th</sup>. I thought we had until May."

Mr. Matheny "Well here's the reason – couple of things and I'm glad you brought the deadline up again. If ya'll choose tonight, if you're not comfortable and you don't – and you want to delay this, we can certainly delay it. I know it's frustrating to the folks who have come to several meetings expecting it to happen, but the reason we're delaying it is we've received letters from property owners and attorneys and you have those and I have another one from BASF and this is our fault that we forgot to put it in the packet. It is quite confusing when we get so much information from some of the people; we've got some from several planning commissioners, and one in particular we've gotten many, many pieces of correspondence and we're trying to –"

Commissioner VanLandingham "But doesn't that just tell you that maybe we should just slow down a little bit and –"

Mr. Matheny "I'm about to get to that and I was saying that's fine and that's yall's call. What we were trying to do – we weren't going to meet – you know we were under a deadline to have it done by March and that's having it –"

Commissioner VanLandingham "Can we get an extension?"

Mr. Matheny "We were under a deadline to get it done by March 1, or sometime in March. I don't remember the exact date but we realized we were not going to be able to do it because of input we were getting from property owners, attorneys; our attorneys are looking at everything – we're trying to avoid problems in the future. So, and if we can avoid litigation and stuff in the future then we're doing the right thing for the County. We're spending a little more time, and a little more money up front to avoid that in the future; hopefully, maybe. So we slowed down and our County Attorney agreed and our County Administrator agreed – everybody agreed to slow down. Now, slowing down meant keeping on some type of schedule – still kind of accelerated to where we would be three to four months late with it. Now, you know because we're looking at tonight doing this, then Monday night voting and then having a workshop for the County Commission in January and then probably at their February meeting having them vote on it and then we have to transmit it to DCA. There's what, a 60 day turn around on that and then it comes back and if we have to make any changes – I mean it is a lengthy, lengthy process."

Commissioner VanLandingham "Are the overlays not included in this – I mean area plans?"

Mr. Matheny "No, the area plans are not included. We're trying to just get – now we were going to start on those early next year and start working again on those and holding the properly – you remember we

talked about we needed to go out and meet with the citizens and doing more of that and whatever ya'll wanted to do we were going to do on that again."

Commissioner VanLandingham "But, what about mining because I thought mining was part of the Conservation Element and ya'll have taken that out but we're going to vote on the Conservation Element anyway? That's another confusion."

Ms. Pennington "I remind you that at the meeting we had in August the direction that we received was that (inaudible) policy involved in the Future Land Use Element and the Conservation Element, that the mining issue would be evaluated by the Planning staff and make whatever changes by 2012. We got that direction and that policy is there."

Commissioner Ganus "Then why do we have mining changes included in what we're working on now?"

Ms. Pennington "Because there has been recommendations to make those changes --"

Chair Sheffield "From the Commissioners."

Commissioner Ganus "From some of the Commissioners but that's the hang up right now. I think that if we went by Policy 5.6.3 that says by the end of 2012 the Planning and Community Development Department shall review and update the mining policies in both the Conservation and the Future Land Use Element and if we go by that, have some more workshops, and I hate workshops, but I think in this case that's the reason we have an audience out there tonight, if I had to guess. If we left out the changes to be made to the mining part of this and proceed without that and then come January, February or whatever to come back and have a workshop to allow input from the interested parties, and affected parties, then we could proceed on and make mining changes; but keep that a separate issue and don't include it in with the EAR Amendments."

Commissioner Allen "Then what does that mandate from DCA mean when it says revision of mining issues? I mean, it's a mandate from DCA."

Commissioner Ganus "Well, we're doing part of it now and then we're going to put part of it --"

Chair Sheffield "Is that right, Marina?"

Ms. Pennington "There is no mandate from DCA. The EAR was written by the County and the assessment was written by the County -- DCA did not mandate anything."

Commissioner Allen "Then what does this mean right here (held up correspondence) revision to mining use policies?"

Chair Sheffield "That's the County, not DCA."

Commissioner Allen "No that's --"

Ms. Pennington "The EAR was written by the County and the County knew they had to update the mining and decided to say there would be some revisions. Now the very first workshop we did back in May and then again in August we pointed to you that there were many, many discrepancies on the



mining policies between both the Future Land Use Element and the Conservation Element and that that issue had to be studied a lot, in depth; and that's when we got the directions on those two policies that the mining would be a study by itself and that the changes would occur in 2012."

Commissioner Ganus "But we got away from that plan and somehow it is included now which --"

Ms. Pennington "There are some changes and the workshop today is precisely to hear that and if you don't want more changes to mining then let's delete the changes to mining and go over the policies for 2012 that a major overhaul of the mining policies will be made."

Chair Sheffield "That's what she explained in the very beginning. A lot of the changes that are in here are things that came from commissioners and so she put them in for us to discuss to decide if we wanted to keep them in there or not. Those are not changes that we as a body made or that staff made."

Commissioner Ganus "But we are contradicting ourselves though between 5.6.3 and the rest of all these changes on mining that doesn't line up."

Mr. Matheny "Yes you are and that's one of the things I wanted to say -- there is some contradictory information in here but what she -- what Marina has done is take any information we have received from any Planning Commissioner and we have put in here as a courtesy so it is for ya'll to decide whether or not that belongs there; whether or not that is inappropriate or needs to be taken out -- whatever ya'll decide as a body. Now let me say this and if you're not -- one of the reasons I know -- and this is a very complex issue -- the mining issue is going to be complex -- it's going to take a long time to work it out -- it's not going to be worked out with us during this process; I can tell you that."

Commissioner VanLandingham "You never answered the question about the extension."

Mr. Matheny "Oh, OK well I'm sorry. I'll answer it now."

Ms. Pennington "May I answer that?"

Mr. Matheny "Yes, go ahead. Marina worked with DCA for 20 years."

Ms. Pennington "The deadline is 12 months. The deadline was to have been adopted by September of this year (2010) and we have already extended ourselves an additional 6 months to March 2011. After the 18 months there is no extension. What happens then is the County cannot adopt any other Comp Plan Amendments. So, today there is nobody banging on the door to get a Comp Plan Amendment, but three months from now you may have them there and if the Plan hasn't been updated you're going to have to say no." She added that the policy deadline for mining is 2012.

Commissioner Allen -- "May I add something -- again this is recommendations from the EAR. Recommendations under Environmental Protection and Conservation--non conforming land uses such as industrial uses affecting watershed, local aquifers, creeks and ravines shall be discussed."

Chair Sheffield "Now where did you get that from, was it off one of our charts?"

Commissioner Allen "One of the many packets I received."

Ms. Pennington “We have discussed that and it has been understood that there are non-conforming uses and that they need to be addressed in the 2012 when there is the major overhaul of the mining policy.”

Commissioner Ganus “That was the reason we included by 2012 so that we would have plenty of time to work on it.”

Commissioner Allen “But here’s the thing and if you will remember --At the first initial meeting we had the mining issues were included. The second meeting all the ‘discombobulation’ of paperwork was done again. At the third meeting they said well we’re not going to bring up the mining issues. At the fourth meeting Marina, herself, came in with revisions to mining and new policies.”

Commissioner Ganus “And we never got to discuss it because it was put off, but now we’re discussing it.”

Commissioner Allen “Right, we never got to discuss it but it was there and now we’re discussing it.”

Chair Sheffield “Now Marina were those, the changes to mining that he’s referring to right now – were those changes that you made or changes that came from a commissioner?”

Ms. Pennington “I don’t know which changes are you talking about.”

Chair Sheffield “Yeah”

Commissioner Allen “I’ll tell you exactly which changes they are. Hang on just a second --”

Ms. Pennington “In the work you have the changes that the Commission directed us to do and I made those changes. In the Future Land Use Element, **page 11 Policy 1.1.5 (M)mining**. These are my notes from the August work shop. You directed me to make the changes with those strike-throughs in blue and underlined in red that are there in the policy.

Commissioner VanLandingham “I don’t have any blue.”

Chair Sheffield “Well, just wherever it’s struck through.”

Ms. Pennington “Those changes to the best of my ability is what I was directed to do. I made the changes. After that I received the comments that I have put here (Policy 1.1.5 (M) as highlighted in red). I got that from Mr. Allen. Those had not been discussed in a workshop and I had not received your direction to put them there, but I have put them there and highlighted as Comments Received for Additional Changes to FLUE Policy 1.1.5 (M) for consideration. And that is the purpose of this workshop – for you to consider them. Do you want them? If you do, I’ll keep them there, if you don’t I’ll delete them there. The only revised policy (**Policy 1.1.6**) you asked me to delete that language -- (***except that transfer of property to immediate family members (parents, grandparents, children, siblings, etc.is allowable)***)--. Then **Policy 1.1.15** we changed the date from 2002 to 2012. Then in **Policy 1.1.22**, and this is where you told me to put in both the Future Land Use Element and the Conservation Element --”  
**BY THE END OF 2012, THE PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT SHALL REVIEW AND UPDATE THE MINING POLICIES IN BOTH THE FUTURE LAND USE AND THE CONSERVATION**

**ELEMENT.**” She stated those were the four changes she got from the August workshop and that she had made changes in the Conservation Element that the Commission had directed her to do which was Conservation Policy **5.2.7 C** where she added to the end of the last sentence –“**–INCLUDING BUT NOT LIMITED TO THE FLORIDA AQUIFER VULNERABILITY ASSESSMENT (FAVA)**”.

Commissioner Ganus “And that’s one of those things that’s not highlighted in red.”

Chair Sheffield “Yeah, he’s right.”

Ms. Pennington “I apologize. I don’t know why it’s not in red.”

Mr. Matheny “Let me make a suggestion, and let me finish answering your question Mari on the timeline. What’s going to happen is – and right now based on our best guess, instead of meeting our March or April timeline, it’s going to be more like July or August – maybe several months later because we still have a lot of work to do on the area plans; especially if ya’ll decide you want us to go out and have more community meetings. You remember ya’ll talked about that as a possibility. Now we satisfied what we had to do and ya’ll talked about maybe doing some more of that so that’s up to ya’ll. Now what we’ll have to do is go – our County Attorney, myself, Marina, several of us are going to go meet with DCA and tell them exactly what’s going on because there are concerns from property owners, you know –“

Commissioner VanLandingham “And concerns from commissioners.”

Mr. Matheny “Well, concerns from everybody, that we’re going to be late and kinda just beg for their mercy basically and just say ‘we’re going to be late and if we don’t process any land use amendments during that time, you know, and if we’re stopped from doing that then we’re stopped from doing that.’”

Commissioner Ganus “Well Anthony let me ask you a question. Can’t we just drop back a step, take the mining out of what we’re doing here and proceed with these two elements and go ahead and submit the EAR amendments and have that on time?”

Mr. Matheny “Sure we can; sure we can but not it won’t be on time—“

Commissioner Ganus “Well, but have mining be a separate entire production.”

Commissioner Allen “I would not recommend that because that is the problem in District V. That’s t he biggest problem we’ve had in District V and we’ve had eight meetings – not four, not five but eight meetings with this group and the previous group and this was our number one issue out there – this mining. We’ve got 500 acres that are out there and 700 acres that are on the drawing board for mining. Mining is an issue.”

Commissioner VanLandingham “Well, why wouldn’t that work -- taking it out of the Conservation Element and –“

Commissioner Ganus “ Out of what we’re doing here and then start after the first of the year sometime and have our workshops and allow all of the input – let it all be about mining. There’s different types of mining in this County and I assure you that they are going to have differences of opinions on what we’re trying to include in here.”

Commissioner Allen “And I understand that, but –”

Chair Sheffield “Can I say something? I want to ask you a question Larry. So you’re suggesting that we take all of the mining out – would have to take it out of both Conservation and Future Land Use Elements and just go back to our 2012 deadline, or are you going to try to get it done before the end of 2012?”

Commissioner Ganus “Well, we could change the 2012 to 2011; whatever date you want to put in there but stick to that plan that we’re going to work on it as a separate issue, separate matter and then we’ll have time during workshops to allow these people to have input. They want to have input and I assure you they do.”

Commissioner VanLandingham “And, it won’t be in conflict with what we’ve already done.”

Commissioner Ganus “Right and then we can proceed with DCA’s timeline and have everything on time except the mining and the mining can come later.”

Chair Sheffield “Well pretty much the only things that we needed to go over tonight were those changes that came from the commissioners on mining correct?”

Ms. Pennington “It wasn’t only on mining –”

Chair Sheffield “Oh, all of these issues that we’ve already discussed at one time or another, yeah.”

Ms. Pennington “These policies there are those changes reflected. We have other changes –”

Mr. Matheny “Before we walk through them let me – Larry, we will -- if we can do that tonight, great; if we can do that, but now again you’re going to have some – you’re going to have at least one commissioner that disagrees but that doesn’t -- that’s up to ya’ll to hash it.”

Commissioner VanLandingham “But you said we can’t vote at a workshop, right?”

Chair Sheffield “No but we’re here to discuss –”

Mr. Matheny “ No, but you can discuss basically tonight. The whole purpose was to work it out and discuss, to come to some agreement that – that it may not be the final thing – you may even have another idea come Monday or you can of course take – if you want to take comments tonight, fine. If you want to take additional comments –you’ll have to take comments Monday by law and then you may change your minds based on those comments. Whatever ya’ll decide to do, but it’s not going to make us be on time. We’re already behind schedule. We’re going to have to – so that’s not going to happen. We’re going to be three or four months behind no matter what we do – whether we go on with this meeting tonight, whether we delay this meeting tonight and start again in January – whatever ya’ll decide, we’re going to be behind.”

Commissioner VanLandingham “What are the repercussions if we don’t have it all done by March 1?”

Mr. Matheny “Well, just like Marina said – there’s not – that’s not the only repercussion, but one of the main ones is not being able to possibly process any future land use amendments, and I know that we have one pending. They haven’t made formal application yet but they have indicated they are going to file; and there may be others. There’s people right now that wants to change their land use—”

Commissioner VanLandingham “ We won’t be able to process for how long?”

Mr. Matheny “Until we get this done. Until we get this completed and that’s going to be – right now on our timeline, we’re shooting for July or August and that’s all of this and our area plans. You remember our area plans are part of the process, too, so we’ve got to get that done.”

Commissioner VanLandingham “That’s what I asked earlier and ya’ll said No.”

Commissioner Allen “I think that policy that we put in 2012 was simply because we had a November 2nd deadline. That’s the reason we put in there 2012 because everybody said we couldn’t discuss mining because we had a November 2<sup>nd</sup> deadline. Obviously we didn’t meet that deadline and we’re not even going to come close so if we’re going to discuss the Conservation Element and the FLUM then we might as well enter into the mining.”

Mr. Matheny “I disagree actually, Ed. We’re not going to get the mining issues resolved with this. We’re just not. That’s why we said 2012 – it’s going to take a while to get anything that’s inconsistent or needs to be changed on the mining issues, it’s going to take a while. Now again, if ya’ll want to talk about what’s in there tonight, fine – I’ll leave it to ya’ll.”

Commissioner Arnold “So what situation are we in with people who submit amendments after next March but before 2012 -- amendments which have to do with mining?”

Mr. Matheny “Until this is resolved, until we get all of this done DCA is not going to process any land use amendments of any kind – of any type until we get all of this resolved, and again – let me re-emphasize we are already looking at – Again, and I’m guessing -- there’s no exact date and we don’t know exactly; it depends a lot on other meetings we have – area meetings and community meetings, if ya’ll want to do all that, but it may take us to July or August to get everything done; back from DCA, final vote from the County Commission and it’s a done, wrapped up deal. So until all that happens, you know – they’re going to slap our hands and say ‘you can’t do anymore land use amendments of any type’ –

Commissioner Ganus “What will we miss, one cycle with DCA submitting land use changes? We can only do it twice a year so we may miss one cycle.”

Mr. Matheny “Yeah, you may be right -- it may just be one cycle; I haven’t looked at that Larry, but it may be just one cycle.”

Commissioner VanLandingham “That kind of gets to the point I was trying to make guys. We’ve already spent a lot of time on this. Let’s not mess up here at the end by trying to rush, rush, and rush to get it done by date certain.”

Chair Sheffield “Now I think one point to make in reference to what you’re asking – if we were to take out all the mining changes now and just stick with our 2012 as when we’re going to address mining, that

means that there are no new rules concerning mining and any mining operations that come in in that period of time. There's no new rules right?"

Mr. Matheny "Right, and we will be addressing it by the end of 2012."

Ms. Pennington "They would be subject to whatever policies are in effect now."

Commissioner Arnold "So we will be able to deal with, and DCA will deal with proposed changes but under the old rules."

Ms. Pennington "Correct."

Mr. Matheny "Correct, exactly -- rules that are in place now. So it depends -- if ya'll want to go ahead and discuss it and not have those in there fine. If you want to wait and do this in January we'll do it. I mean whatever ya'll want to do, we'll do it but it is -- one of the things that's made it difficult -- and this is not a slam against anybody at all -- but what's made it difficult is that we received so much comment from the time we started and we thought we had it pretty much streamlined and we received a lot more comment; and Larry I know some of these folks out in the audience have not had their day in Court so to speak, and get up and express their opinions, but we do have some of those opinions very 'articulately' written in their letters that are included in your packets. So, they have expressed their opinions but not verbally in a forum like this, so it's not that they haven't been heard at all. I'm making sure ya'll -- by including it."

Commissioner Ganus "Well, could we put in this policy, the one that says 'by the end of 2012 that mining policies will be considered' could we put a suspension on any new mining land use changes until those new policies are put in place?"

Chair Sheffield "You just aren't using the word."

Commissioner VanLandingham "Like a moratorium?"

Commissioner Ganus "Don't use that word -- use suspension."

Mr. Matheny "I don't know the legality of that, I really don't."

Commissioner VanLandingham "Well, we have an attorney sitting right there."

Mr. Matheny "Well, he hasn't had time to research it, but he certainly may make a comment."

Ms. Pennington "Do you mean a suspension on changes to mining or suspension to mining activities that are already authorized?"

Mr. Ganus "No, any new ones --"

Ms. Pennington "No new changes to designated land that's mining?"

Commissioner Ganus "Exactly -- that's right."

Chair Sheffield "Or I guess they mean no new amendments to land use amendments."

Mr. Weiss "Well ya'll as a body can do what you decide you would like to do. You can make a recommendation and the Board of County Commissioners can accept it or not. In terms of whether or not a – if you're asking if it would be a good idea -- I mean, a moratorium -- it's hard to say. I mean you don't want to preclude people from doing something for a longer time than is necessary. If it's a reasonable length of time then it could be a reasonable thing to do. If it's a long time it may not be and, you know it's all very fact specific and I can't stand here and tell you that 'yes you could do it and it would be fine for "X" number of months or "X" number of years; it's just based on the situation but --"

Chair Sheffield "Remember, Ms. Minnis gave us some examples on that."

Commissioner VanLandingham "Oh that's right."

Commissioner Ganus "Do you have an opinion on what a reasonable time would be?"

Mr. Weiss "Right now I would say no. I can certainly give you an opinion but I would want to probably look into it a little bit deeper."

Commissioner Ganus "Because at this point we can put by the end of whatever year we want to because it's open for discussion. We could back it up a year and make it 2011."

Mr. Matheny "That's not going to happen."

Chair Sheffield "You don't think we can get it done in a year?"

Mr. Matheny "No, we're going to be focused on getting through this process for most of 2011 and then that's on top of what we do every day in our department. You know this is one process; it's not – other things come before us and church approvals and anything else that comes before you guys so I don't see it unless we got additional staff or additional consulting help and that's always – all I can do is ask and in most of the times I'll probably get turned down because of tight budget so I can't guarantee that. I wouldn't want to mislead you and say 'yeah I can do that. I don't --"

Chair Sheffield "Could I float an idea with you? What we've done in the past is we had committees that were made up of interested citizens – we always had people that were in the industry that we were talking about as part of the committee and they were very effective in having both sides discuss things and we came up with some really good plans. We did that with the sign ordinance, the tree ordinance and there was something else, cell towers – just a thought to have some committee input -- to do the research – it's a starting point."

Mr. Matheny "If you feel like you need to do that, that's your prerogative."

Commissioner Allen "Let me ask you this. Marina you can probably answer this – What is ERA going to do on their ORC Report when it comes back and they had kind of mandated that non-conforming land uses and under Environmental Protection non-conforming land uses; what would the ORC report do?"

Ms. Pennington "I was going to say they didn't mandate – that was written by the County. DCA did not mandate --"

Commissioner Allen “No, this was written by –“

Ms. Pennington “ When we spoke with DCA – when we speak with DCA and we say you know the mining policies in the Future Land Use Element and the Conservation Element really needs a lot more work and the County is saying they want to do this by 2012. I don’t think DCA would force the County to do it now; to do some half way job when you are committing to (inaudible) the policy.”

Commissioner Allen “This was written by DCA though.”

Ms. Pennington “The EAR was written by the County.”

Chair Sheffield “The County writes the evaluation report, they send it to DCA. Then DCA makes sure that their report is sufficient and they then get back with the County and say ‘you’ve done your homework. You know what you need to work on; now you work on it and then you submit it to us.”

Commissioner Allen “It’s recommended Plan amendments and it says these recommended plan amendments will be used to update the Comprehensive Plan during the EAR based amendments process.”

Ms. Pennington “That’s not mandated – it’s recommendations made by the County and DCA agreed the assessments were sufficient and –“

Commissioner Simmons “ Just being a new person in this process and on this committee; from what I gather here, if mining is an issue I do concur that you maintain the current timeline you have of 2012, but everything in this EAR report that relates to mining, I agree go ahead and pull it out – everything that relates to mining – pull it out and set it aside and then go ahead and approve the EAR report. You can do it that way and I think that’s the best way to do it because obviously you’re not going to make any progress on it this evening if you keep it in there. You don’t have to vote on it, but we can do it as a consensus that we all agree – or whoever – that we agree to set it aside and then we can vote on it if we have a meeting on December 13<sup>th</sup> that we pull everything out and deal with mining as a separate issue.”

Commissioner Ganus “And based on what you said Anthony that it’s going to take a while to do it, I don’t see how we could possibly include it in what we’re working on tonight. There’s no way that we can come up with a decent proposal.”

There was a brief discussion concerning the Overlay plans and the fact that they have to go in with the EAR.

**Commissioner Arnold made a recommendation that in order to stay ahead of the curve on the area plans that two committees be formed—one for each of the area plans and have the committees make recommendations to the P&Z Commission. The committees would include citizens and members of the P&Z Board. Dr. Arnold (being At-Large) could also serve on both area plan committees. He suggested perhaps the P&Z members could contact Mr. Matheny and volunteer to serve on the committees as well as having citizens to serve – have Commissioners Tranchand and Allen as representatives of the two areas to head the committees and make recommendations from the committees back to the P&Z Commission.**



Ms. Pennington “Well, I just have to point out a clarification that we (referring to herself and Preble-Rish) have committed to have the EAR based amendments ( changes to the 8 elements plus the two area plans) because that was part of the contract we have with the County. Now, could we send to DCA only the 8 elements as the EAR based amendment and would they have a problem that the two area plans are not done? Maybe we can talk to them and we might be able to do that. We wanted to do them on time because there are deadlines and the County is way far behind. One of those area plans was due in 2009 and the other one early in 2010 so they are already late so we could try to convince DCA that the EAR based amendment are the changes to the eight elements and that we are still working on the two area plans.”

Commissioner VanLandingham said maybe Ms. Pennington could also use the point that there have been three different directors, two consultants and lag time in between each of those changes and had that not been going on possibly they could have been a little closer to being on schedule.

Mr. Matheny “Yeah, no doubt and I think they will take that into consideration and we are going to meet with them and lay it all out on the table; there’s not going to be any secrets kept from them. They are going to know what is happening, and yes, I agree with Marina that maybe they will accept those and then the two area plans will get done when they get done, a little bit later in the year. And, if they will do it we will surely go through and do it.”

Commissioner Arnold “If we take that approach then that certainly raises a question with me. In the event that the eight elements go in and there is a conflict between one of those and between one of the area plans later, does one take precedence over the other? Let’s say for example the Conservation Element that I’ve got in front of me had a rule in it and we relaxed that rule or changed it in some way in an area, which one is dispository? “

Ms. Pennington “Well I think the area plan could be stricter, you know, than the County-wide. If you wanted to have a higher standard for (inaudible) but I don’t think that you could go lower the standards for one area without justification – you may want to lower the standard for transportation in an area with no congestion, but you will have to really support lowering the standard in that area as compared to the policies that apply County-wide.”

Commissioner Arnold “That reassures me then.”

Mr. Matheny “I totally agree – you can up the standards in the area; you can’t lower it.”

Chair Sheffield “I think the question was if the stricter area plan will take precedence over the elements in the Comprehensive Plan.”

Mr. Matheny “Yes, in that area but nowhere else. I believe that – I agree with Marina, I believe that’s right.” He also distributed a copy of letter from BASF for the record which he explained staff had mistakenly left out of the agenda packets.”

**IT WAS THE CONSENSUS OF THE P&Z MEMBERS TO PROCEED WITH COMMISSIONER ARNOLD’S RECOMMENDATION FOR FORMING THE TWO COMMITTEES ON THE TWO AREA PLANS. –**

Chair Sheffield “I think you will find there is plenty – there is a mountain of information already so you may not need to have any public meetings.”

Commissioner Arnold "And that's one of the things the committees will look at."

Commissioner Allen "Getting back to mining. If we do that I would agree to it if we put a moratorium on it, but we've got to put a moratorium on it. We have 700 acres out there that they currently have applications in to go to mining out there in District V, and we have 500 acres that are non-conforming."

Commissioner Arnold "So you're saying that we are likely going to be dealing with proposed changes for those 700 acres before the 2012 deadline?"

Commissioner Allen "Yes, I assume so. The applications are in the County's hands and I assume they would be coming up before that. So as long as the mining operation's moratorium –

Commissioner Ganus "Suspension is a better word –"

Commissioner Allen "or suspension of mining operations, of new mining operations or however you want to phrase it, but like I said we've got 700 acres on the books –"

Commissioner VanLandingham "I think that's a good idea; until we get it straight."

Commissioner Allen "Yes, until we get it straightened out."

Chair Sheffield "So what is it that we're trying to reach consensus on? Larry why don't you state it since you started it."

Commissioner Ganus "Well, **to pull any reference to changes to mining in the Conservation or the Future Land Use Elements at this time and abide by the policies that we included to "by the end of 2012" review mining policies and to develop any changes that we need to, and during that time there will be a suspension of any land use changes to the mining category.**" He further explained this would mean removing just the changes that are proposed to be made in the two elements (Conservation and Future Land Use Elements) in the EAR amendments.

Ms. Pennington said the Commission had previously approved or recommended she make changes to paragraph (M) asked for clarification on proposed changes to (M), page 11 Future Land Use Element –if the proposed changes were to remain or if they were to be deleted and (M) remain as it is today.

Chair Sheffield said she thought the Commission would want to leave the changes to (M) in there.

Ms. Pennington "So you want those changes you have already recommended but you don't want the ones I have highlighted in yellow?"

Chair Sheffield "That's what I thought we were doing."

Commissioner Ganus "You had a major change right in the middle of it in the second sentence -- That is a major change and that's part of what I'm talking about that has the mining people concerned."

Mr. Matheny "And that can't be done right now because that requires – if you change that small wording you are talking about a monumental change. You're talking about not under review, but to

review and then you've got to figure out what all is included in that review. That takes study, that takes engineers, that takes soil people; takes a lot of things to consider and one other thing, on the advice of our County Attorney – if you're going to agree – I know you won't be voting on it tonight but you will reach a consensus, and you agree there's going to be a suspension of mining activities – or rather new mining activities during this –“

Commissioner Ganus “It's any land use changes to mining--”

Commissioner VanLandingham “Or any new mining activities.”

Commissioner Rowan “I don't think we have to do that. If it just requires a change of land use, then we won't do that but if they can go ahead and use it as it is now, then they can do it.”

Mr. Matheny “So any changes of land use to mining would be suspended, but you would have to come up with a definite date. You can't just say indefinitely, you have to come up with a –“

Commissioner Ganus “Well, by the end of 2012, that's what we've been working on anyway so that's your date – December 31, 2012.”

Commissioner Allen “What about extension of existing mines?”

Commissioner Ganus “Would it require a land use change?”

Commissioner Allen “No, because they're non-conforming.”

Commissioner Ganus “Well, that's a problem anyway. That's another problem.”

Commissioner VanLandingham “That's a code enforcement problem.”

Mr. Weiss “I think you should be careful when you're talking about two years of not processing any land use amendments. That's a pretty long time. I mean, and again I'm not saying that it's too long but that's a longer; that seems like a long time to tell people that they can't request a land use amendment but –“

Commissioner VanLandingham “Could we say until we get this mining issue addressed?”

Commissioner Rowan “I didn't understand the way you were talking. If there's no land use required then they can go ahead and do it under the present plan. Am I right?”

Chair Sheffield “But he's saying two years is too long to not allow any new land use amendments to Change to mining.”

Mr. Weiss “Right. Ideally, I think you would need to get it done a little quicker”

Commissioner Allen “How does that read – by 2012 or by the end of 2012?”

Commissioner Ganus “By the end of 2012.”

Chair Sheffield “And if you get your mining done sooner than that –“

Commissioner Ganus “But Anthony has told us it’s going to take that long to get it done.”

Mr. Matheny “Well I can tell you that it probably wouldn’t be done and completed by the end of 2011 like ya’ll were talking about ‘what if we did it then’ – I don’t know, it could be done by February 2012. I have no idea what it’s going to take to do that, but I doubt that it would be done and completed by the end of 2011.”

Commissioner Ganus “Madam Chair do you think we could possibly allow some of the audience about three minutes apiece to talk about this issue and to see if any of t his that we have discussed is a big problem for them? If it’s not a problem for them then we’re just beating ourselves up to arrive at a number here.”

Chair Sheffield “That’s fine with me.”

Commissioner Simmons “Could I ask a question Madam Chair – Now, tonight when we walked in here we had this whole package before us that we were supposed to basically give consensus to move forward with it so we can vote on it Monday night. Am I correct?”

Chair Sheffield “Correct.”

Commissioner Simmons “So now we’re going to take that and set aside for two years – just the mining – but what I was thinking was we just need two or three more months, or whatever, to go through the process and go through the issues on mining, discuss it and be through with it. I wasn’t talking about two years.”

Chair Sheffield “Well that’s what we think but we don’t sit in the position of knowing what’s involved in going through something like that. I mean my thinking too is that OK, you’ve got a committee, you get it done in a few months but that may not really be–”

Commissioner VanLandingham “Mining is a big issue.”

Commissioner Simmons “-- But six months should be long enough.”

Mr. Matheny “Well, I can’t guarantee that -- I don’t know about that. You’re talking about a small staff and we’re talking about finishing this process and going into the area plans – all of the meetings required to do that, if ya’ll want to do that and then you’re talking about all the other things we have to do week to week and –”.

Commissioner Ganus “Anthony, what about the end of 2011 so that we don’t lose this direction we’re headed in here.”

Mr. Matheny “It certainly wouldn’t hurt to recommend anything you want here tonight and we can certainly try it. Larry whatever ya’ll want to see us try to accomplish, I’ll be happy to go along with that goal and we’ll do our best to make it.”

At this point, Chair Sheffield called for comments from the audience dealing strictly with postponing mining, deadlines, etc. – comments to be only, exactly what is being discussed tonight.

**MR. ANTHONY FEDD, BASF Site Manager, Quincy Operations** addressed the Commission and stated he understands the Commission only wanting comments from the public tonight on the current issue. He said a number of the people wishing to speak are concerned with changes to the Conservation and Future Land Use Elements pertaining to mining, and said if the Commission should decide to remove their current consideration of proposed changes to mining, BASF would not only appreciate that but would also be prepared to bring further comments at a later time. BASF would agree to the Commission considering mining at a future date and would not have an issue with 'no new mining being considered' but feels two years would be a bit unreasonable -- an excessive amount of time. He said his main concern tonight is the current existing land use map as it doesn't show what is currently zoned as mining -- it's shown as AG. Mr. Fedd also liked the idea of the two committees as proposed by Commissioner Arnold and said he would certainly like the opportunity to provide some expertise to help with that issue.

Pennington said that was correct and that's one of the big issue with mining. She explained if you read the Future Land Use and the Conservation Policies you would get the idea that mining will only occur where there is a designation in the FLUM as mining. However, that's not how it has happened. Mining is happening in areas designated as AG in the FLUM. She said there is a lot of work that needs to be done on the mining issue, the existing land use map and the future land use map designations for mining.

Mr. Matheny said he agreed with Ms. Pennington that there is a lot of work that has to be done and that he believes it will take all of two years to get it done; will try to get it done sooner but can't guarantee it because it is complex.

**MR. HOWARD KIRK, BASF** also addressed the Commission and expressed concern with the Existing Land Use Map because if the County goes by that, it would create extreme problems. He said in 1991 they worked with the County and had all of their lands designated as mining and the current land use map indicates only approximately 5 acres of BASF's land designated as mining so if the Commission is saying there will be no new mining on existing land then BASF will be done.

Commissioner Ganus said he is not advocating using that map as he doesn't agree with it either and the large map on the wall comes closer to describing the mining areas. He said his recommendation is to use the wall map (Map on wall of Commissioner Chambers labeled Future Land Use Map) that no new mining be allowed to expand that.

Mr. Kirk said he would not feel comfortable leaving the meeting tonight with that map (wall map) saying "Future Land Use Map" that someone should scratch out "Future and Write Existing".

**MR. KENT SAFRIET, ATTORNEY REPRESENTING CW ROBERTS (ROBERTS & ROBERTS LAND COMPANY)** addressed the Commission stating concerns with the proposed moratorium (or suspension). He said that is a big problem and said if the Commission wanted to pull all of the mining issues out and set them aside and maintain status-quo until the mining issues are worked out, then pull them aside and make things status-quo which would allow for amendments to the Future Land Use Map, similar to any other land use category and mining should not be treated any differently. He also said if the Commission doesn't want to keep everything status-quo then "let's deal with mining issues right now". He said his client (Chuck Roberts) has requested as part of the EAR based amendments to change the land use designation on 64 acres of his property to mining and 80 acres to conservation. He said the purpose of the EAR based amendments is to get the land use squared away and get it to match what's going on

with the land. He said a moratorium would substantially affect property rights and would create legal issues for the County, and that he doesn't think it is a good idea.

**MR. MICHAEL DONALDSON, ATTORNEY FOR BASF AND ANDERSON-COLUMBIA** addressed the Commission by stating his long history with mining issues, and that in the very early 90's attapulgitite mining was front and center in working with the County to come up with a Future Land Use Map in 1992 and the issue with the Future Land Use Map (as included in packets) doesn't reflect any of the mining but the wall map obviously reflects a lot of the attapulgitite mining area which is a lot better than the sand mines because the sand mines won't even be found on the future land use map. He said the County obviously recognizes the importance of mining in Gadsden County because it creates jobs. He also said there are a lot of inconsistencies in the County's policies pertaining to mining – a moratorium is an evil thing, it can be done but it can also be challenged. Mr. Donaldson also liked the committee proposal by Commissioner Arnold and asked that the County work with the Community and the Business Interests and come up with a process that clearly defines what all is involved.

AT THIS POINT A 10 MINUTE BREAK WAS TAKEN – 7:40 PM AND RECONVENED AT 7:50 PM.

Chair Sheffield called meeting back to order at 7:50 PM.

Mr. Matheny "Madam Chair if I could make a couple of comments –After listening to everything tonight I'm just going to make a recommendation to you guys and then you can go which way you think is proper. I think that pulling the mining for now for something that we can work on over the next couple of years – it may take a year, may take six months – may take nine months, I don't know how long it will take but we can work on it as a totally separate issue. I think that's smart to consider. I think you also should strongly consider no type of moratorium at all. Let me tell you one reason for that. Because until we get -- we're not going to make our March deadline with DCA; now that is a given. I can assure you it's a fact. I mean, you know we've got Christmas week and then another week and December is over and so we're not going to make our deadline. We're going to be several months past it at minimum because we have to finish – we have to do the area plans as well like we talked about earlier so we're going to be months late. Well, as soon as the late button is pushed by DCA – they've told us they're not going to process any more land use amendments when we're late so that stops anything from going on for a while anyway, maybe and at least probably the next 8, 9 or 10 months and maybe even longer than that. So, that may be something ya'll may want to consider. Also if you're pulling out mining tonight and if there's something else you want to discuss in the two elements fine, and if you're happy with what you've already read outside of mining and you think that that's something you can vote in favor of Monday, I would say try and reach consensus on that and let's vote on it and get it done. The quicker we do this and then met with DCA and say 'hey, we're making the best faith effort we have to get these eight elements done and get that part done, I think they're going to view us a lot more favorably as we work on our area plans. So, that's my recommendation".

Chair Sheffield "That was going to be my recommendation as well, and now the question is that means we would need to pull a couple of these – FLUE 1.1.5 (M) –"

Ms. Pennington "Yes, and I would like to walk you through the ones that we are going to take out to be sure."

Chair Sheffield "Well, before we do that, let's make sure we are all in agreement that that's what we want to do."

Commissioner Allen asked Mr. Safriet questions concerning CW Roberts Asphalt Plant being found in non-compliance by the BOCC, and had been asked or told by the Board of County Commissioners to be out of the location by July 21 of this year. He said Mr. Roberts has stated that he plans to open a sand pit and then asked Mr. Safriet if Mr. Roberts plans to be in compliance prior to opening his proposed sand pit.

Mr. Safriet said he would disagree with Commissioner Allen's characterizations that Mr. Roberts has been found to be not in compliance; that he did not believe that to be an accurate statement. He said the BOCC doesn't get to define non-compliant – only the Court does that. He further explained Mr. Roberts had volunteered not to fight the issue and agreed with the Board to stop the asphalt recycling plant – Mr. Roberts made that agreement, signed an agreement with the Board and Mr. Roberts has full intentions to comply with the signed agreement. Mr. Safriet responded to Mr. Allen that he doesn't know if Mr. Roberts plans to move forward with the sand mining operations; that he isn't sure what Mr. Roberts' intentions are at this time.

Chair Sheffield said this discussion is getting off target with what the Commission was trying to agree to do and that they need to get back on target with the issue at hand.

Mr. Safriet briefly touched on possible potential problems and concerns for other mining interests in the Lake Talquin area with compliance, non-compliance and grandfathering of those properties that are not properly designated as mining on the Future Land Use Map. He said that is what needs to be corrected in this part of the EAR based amendment. He reminded the Commission the Comprehensive Plan states "Protect mining resources, identify those lands and label them as such." He further stated he feels DCA may be looking for the County to come in now as part of the EAR based amendments and say fix these designations, fix the map, but right now the EAR based amendments doesn't have any map amendments in it. There isn't one single map amendment in the entire EAR based response and he feels that may be a major concern for DCA.

Chair Sheffield "At this moment are we reaching a consensus that we are going to pull mining from these elements at this time, that we are going to form a committee and get into the mining and that we are going to move forward with approving the Future Land Use Element and the Conservation Element. Is that our consensus?"

Commissioner Ganus "Are you saying form a committee to work on just the mining – not the whole Commission?"

Chair Sheffield "Correct."

Commissioner Ganus "Through the workshop process?"

Chair Sheffield "Yes"

Commissioner Ganus "I would rather have workshops with the whole Planning Commission present and have public input from the miners."

Chair Sheffield "Rather than a committee meeting with the industry?"

Commissioner Ganus "Right."

Chair Sheffield "OK, but you didn't answer my question. Are we going to move forward with these two elements and leave the mining out, does everybody agree with that?"

Commissioner Simmons "The mining stays status-quo as it is now and we continue to operate in that manner."

Chair Sheffield "That's my question."

Commissioner Simmons "That's the way I take it."

Commissioner Ganus "you're saying without a suspension of any land use change to mining?"

Chair Sheffield "Right."

Ms. Pennington reviewed exactly what she will do to **Future Land Use Element and Conservation Element** as shown:

**FUTURE LAND USE ELEMENT:**

**Page 11 – Policy 1.1.5 (M) Make No changes – Changes that had been suggested last time will be left unchanged. The changes highlighted in yellow that have been proposed will not be included.**

**Page 13 - Policy 1.1.22 – Policy Remains**

**CONSERVATION ELEMENT:**

**Page 4 – Policy 5.2.7 – Item (A) remains Item (B) remains Item (C) Remains Item (D) all new wording underlined and in red will be removed Item (E) All of this item will be removed.**

**Page 6 – Policy 5.2.22 remains (This is a new policy added by County staff) to be reviewed by County Attorney**

Mr. Safriet said Policy 5.2.22 should be removed because it is a new policy and relates to mining.

After discussion and differences of opinions, Chair Sheffield recommended Policy 5.2.22 remain and have the County Attorney review it and give opinion/advise to the Commission on Monday.

Mr. Weiss "I would agree that if what ya'll are trying to do is table this and put it off than to go in and try to sort of pick and choose what you want to keep – "

Commissioner VanLandingham/Chair Sheffield "This is not just about mining; this is about any non-conforming land use. It's not just about mining and that's why we put it in there."

Mr. Weiss "I would agree that probably the language probably needs some tweaking."



Mr. Donaldson “The problem with this policy is that it’s trying to do code enforcement in the Comprehensive Plan and in theory if you have a non-conforming use you go through an administrative process before the Board of County Commission and they decide if you’re a non-conforming use. That’s the definition of a non-conforming use – whatever the Commission says is a non-conforming use, in theory; so what you have in here is you’re trying to do in your Comp Plan what theoretically already happens as a matter of your zoning code and your land development regulations. And, that’s why it’s hard and I submit to you statutory construction that if I read that policy for the first time, I would think it was put in there to deal with industrial uses and mining; otherwise why would you put them in there – why would you single them out?”

Mr. Matheny “I understand exactly where you are coming from on this and the intent is right, but t it is, after listening to – let me give you an example of non-conforming -- -- my recommendation is to just remove it to be consistent. Remove everything that is going to impact mining in any way and let’s just deal with all of it later. That’s just my recommendation to ya’ll.”

Commissioner Allen “You gave us an example – let me give you one. Of the mines that is in operation in Ag 3 zoning – is that non-conforming?”

Mr. Matheny “I would have to look at it. I’m not going to answer that tonight Ed because I don’t know the – I don’t know, it might be non-conforming legal uses. I would have to look a t the specific case to determine and I don’t have all of that information in front of me. Now if they’re non-conforming legal uses and they’re allowed in that respect and then they change the direction of what they’re doing or they go to expand or they add additional uses on t hat property then they become illegal non-conforming and that is a code enforcement issue to go out and stop them from what they’re doing.”

**Ms. Pennington “Going back to Conservation Element and confirming”**

**Page 4 Policy 5.2.7, (A), (B) will remain as shown in agenda packet. (C) Last sentence remove – including but not limited to the Florida Aquifer Vulnerability Assessment (FAVA). (D) All new language in red and underlined will be removed. (E) All of this item will be removed.**

Ms. Elva Peppers addressed the Commission concerning Policy 5.2.7 (C) pertaining to the FAVA Study and stated she is not sure who on the Board or in the Planning Department is going to review the FAVA Study – it’s a very complicated document and in order to apply it to a site-specific property a very extensive model would have to be done which normally is not done by the Board of Mine Reclamation. She said they don’t use this study – they use site specific data and to require that a study be done according to FAVA, so it doesn’t make sense to require that study be done on a site specific project.

Chair Sheffield said this is why the Commission needs the industry input – said she doesn’t know what FAVA is.

**Let the record reflect Commissioner VanLandingham left the meeting at this time (8:40 PM)**

After additional comments regarding the FAVA report, Chair Sheffield said that is something they can take out for now and look at when they do their research; she said that is her suggestion.

**Page 6 Policy 5.2.22 – Entire Policy to be removed.**

**Page 11 Policy 5.6.1 – Remove all proposed changes – Policy is to remain as currently adopted.**

**Page 11 Policy 5.6.3 – Policy will remain as shown– “By the end of 2012, the Planning and Community Development Department shall review and update the mining policies in both the Conservation and the Future Land Use Element.”**

Ms. Pennington said all of the changes will be made and she will have them ready for the Commission by Monday. She then asked the Commission to go back to the Future Land Use Element and made recommendations as follows:

#### **FUTURE LAND USE ELEMENT**

**Page 26 Policy 1.14 – ADD POLICY 1.14.5 Rooster Crossings FLUM Amendment which was adopted July 16, 2009, but has not been included in electronic or hard copy of the Comp Plan – This is not a new policy.**

**Page 28 Policy 1.15.3 Proposed deletion of Lake Talquin Wetumpka Area and US 90 East Corridor must remain – cannot be deleted because these two studies have been postponed. The draft will remain the same.**

**Page 12, Policy 1.1.13** Commissioner Ganus pointed out that the date shown for the US 27 Corridor is “by the end of 2012”, but on **Policy 1.15.3 page 28** the date shown for the US 27 Corridor is “by March 1, 2011”. He said the dates need to be consistent whichever way they decide to go – both need to be the same date.

Mr. Ford said he did not believe the date in Policy 1.15.3 could be changed because it was mandated by DCA and Chair Sheffield said then the date in Policy 1.1.13 should be changed. However, after a brief discussion Mr. Matheny said they simply would not meet the March 1, 2011 date and **it was agreed to leave the policies as shown – no change to either date to be made.**

**Commissioner Ganus also pointed out that on Page 28, Policy 1.1.5.3 should be changed to correctly reflect Policy 1.15.3.**

Ms. Pennington said she will have all changes made and will have the new draft on the two elements – Conservation and FLUE to the Commissioners on Monday for their consideration and possible vote at the Monday night meeting.

Mr. Matheny said his recommendation would be if the Commission is in agreement to remove all references to mining and in agreement with everything else they have read, that hopefully they have consensus to go forward on Monday night.

Chair Sheffield asked if anyone had any questions concerning any others – some changes that were based on State Law, Chapter 163 –

Commissioner Ganus said he had a concern with one issue to be taken up Monday night; that being the Future Land Use Map and as he has gathered from the audience that too is a problem because it doesn't accurately reflect what is going on and that it would tend to confuse everyone even more than they

already are and would “muddle” the process down. He said he would like to see that Map removed from the process if that could be done.

Ms. Pennington said the Rule requires the Comprehensive Plan to have both an existing land use map and a future land use map – Future Land use map giving designation of what is intended – how those lands should be developed. The Existing Land Use Map is how it is developed today. She explained the best available data they had to prepare that was the Property Appraiser’s data. She said if that is not accurate it will have to be updated but they cannot make it up – they have to have the data.

Mr. Matheny responded that just to simplify it and without discussing it in detail tonight that even if the Commission approves that Monday, it will still take a lot of time to get everything right. He said basically what the Commission would be doing is “approving the best information that we have now – that we know some of it is not right – we know it’s not reflecting some of what is on the ground and it is -- but the future land use map is doing a much better job of that. But then we go in and because it’s required in the Comp Plan we have a model, albeit a flawed model that we can fix and will fix, but it will take a little while to get it right and you’re approving – and it is based on information we got from the Property Appraiser’s Office and, so we know there are things that are different on the ground, but we are doing it in the proper manner by using that information so my recommendation would be to go ahead and approve it and then let’s fix it.”

Commissioner Ganus asked the other Commissioners what they thought -- “is it better to send in flawed information just to get it through DCA, or is it better to pull it out and get it right before we go because this thing is just totally --”

Chair Sheffield “Now when you said you got this information from the tax assessor – is that recently or was that way back?”

Mr. Ford responded “Back in June or July.”

Chair Sheffield “Oh, so it is recent then.”

Commissioner Ganus “What I’m afraid of is someone will take this thing and interpret it as something that it’s not because it’s in our Comp Plan. I would rather not have something than to have something that is this far off base. It’s better to use that (referred to map on wall) as both maps if we have to because it better reflects what’s going on than this thing (agenda packet map) does in my opinion.”

Ms. Pennington “We can leave it out and then if DCA objects to the fact that we don’t have an existing land use map then we will deal with that.”

Mr. Matheny “Yeah, I agree with Marina and I would rather get my hand slapped again a little bit; let’s just leave it out and then when they tell us ‘hey you’re missing your existing land use map then we’ll explain that we are trying to update it and make changes, so let’s just go that route. I mean we’re going to be late anyway – it’s one more slap, but you know – maybe we do it that way. That’s just a suggestion.”

Commissioner Ganus “That would be good.”

**Mr. Mike Batts, President of Phoenix Environmental Group, here on behalf of BASF** addressed the Commission stating his agreement with Commissioner Ganus that the map (Exhibit 1-A) be left out as it is unsure who may be looking at it – an attorney for the Department of Natural Resources Defense Council could get hold of it and say ‘BASF you’re out of compliance – this is zoned timber and you’re mining. We’re going to have to shut you down’. He said if it can be left out and corrected over time – correct it with the committee the Commission has talked about forming and that will save a lot of headaches for everyone.

Ms. Pennington said there were two proposals that she has not received direction from the Commission Repealing two FLUM Map amendments (Highlands at Lake Talquin and Stoddard II Properties)

Mr. Matheny said he thought the Highlands issue would be better discussed in depth when they are doing the area plans and the committees have a chance to meet and talk about it and the other one is dealing with mining and that the Commission has already agreed not to discuss the mining so it should be considered and worked out at a later date.

Mr. Michael Donaldson addressed the Commission and said he represented both the Highlands and Anderson-Columbia on both of these FLUM Amendments and they certainly don’t want to see any Ordinance that they went through legally adopted process to get approved now be appealed. He said he didn’t know what the Commission’s reason for appealing either of those amendments is. He said he would agree with Mr. Matheny that this should be addressed in the Lake Talquin Overlay Area review/consideration.

Commissioner Allen briefly discussed the Land Development Agreement, Chapter 9 Subsection 09 which states the County shall review all lands within the County subject to a development agreement not less than once every 12 calendar months to determine if there has been good faith compliance and Commissioner Ganus said this is not a development order that they are dealing with though, that it is a Comp Plan Amendment. He then asked if a development order had been issued on this property.

Mr. Matheny said they haven’t started any work on it – that he didn’t come prepared to discuss it in that context and said they are in compliance with everything in the comp Plan. He said he did not believe the Commission should go there at this time – one of course if mining related and the other can be dealt with in the area plans – if they want to address it at that point.

Mr. Donaldson said the Highlands have not gone forward with development; that the economy has put a “kibosh” on it, at least for now.

Mr. Matheny made closing comments that he believes the Commission will be ready to vote on these elements Monday night and that they will have two other issues on the agenda –(1) property owner initiated requests (wanting land use amendments) (2)how other planning commissions are made up, number of planning commissioners – those types of things.

**THERE BE NOTHING FURTHER TO COME BEFORE THE COMMISSION AT THIS TIME, THE MEETING WAS  
ADJOURNED AT 9:00 PM.**

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DIANE SHEFFIELD, CHAIR

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Jean Chesser, Deputy Clerk