

**Lee County Board of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20031401

1. REQUESTED MOTION:

ACTION REQUESTED: Provide direction to County Attorney's Office regarding offer of settlement submitted by Matthew D. Uhle, Esquire, on behalf of the plaintiff intervenors in the Setti vs. Lee County challenge to the Pine Island Community Plan Amendments to the Lee Plan.

WHY ACTION IS NECESSARY: Response to offer of settlement necessary so that parties know whether to prepare for trial.

WHAT ACTION ACCOMPLISHES: Provides direction to the County Attorney's Office on whether to accept settlement offer in case challenging Pine Island Community Plan Amendments to the Lee Plan.

2. DEPARTMENTAL CATEGORY: County Attorney COMMISSION DISTRICT # 1	3. MEETING DATE: 12/9/03
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4. AGENDA:	5. REQUIREMENT/PURPOSE: <i>(Specify)</i>	6. REQUESTOR OF INFORMATION:
<input type="checkbox"/> CONSENT	<input type="checkbox"/> STATUTE	A. COMMISSIONER _____
<input checked="" type="checkbox"/> ADMINISTRATIVE	<input type="checkbox"/> ORDINANCE	B. DEPARTMENT County Attorney's Office
<input type="checkbox"/> APPEALS	<input type="checkbox"/> ADMIN. CODE	C. DIVISION Land Use
<input type="checkbox"/> PUBLIC	<input checked="" type="checkbox"/> OTHER	BY: _____
<input type="checkbox"/> WALK ON	_____	Timothy Jones
TIME REQUIRED: _____	_____	Chief Assistant County Attorney

7. BACKGROUND:
In March 2003, Russell M. Setti and Eagles Landing at Pine Island, Inc., filed a Petition for Administrative Hearing challenging the County's adoption of the Pine Island Community Plan Amendments to the Lee Plan. Thereafter, several parties filed Petitions to Intervene in support of Setti's position. Several Petitions for Leave to Intervene on behalf of Lee County and DCA were also filed by the Greater Pine Island Civic Association, Barbara Dubin, and the Responsible Growth Management Coalition. All Petitions to Intervene were granted by the administrative law judge presiding over the case. Currently, the County Attorney's Office and staff are preparing for the final hearing before the administrative law judge. The hearing is scheduled for February 2004.

(continued on Page 2)

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
					OA	OM	RISK	GC	

10. COMMISSION ACTION:

_____ APPROVED
 _____ DENIED
 _____ DEFERRED
 _____ OTHER

On October 21, 2003, Matthew D. Uhle, Esquire, delivered an offer of settlement on behalf of all intervenors aligned with the petitioner Setti. (Russell M. Setti and Eagles Landing at Pine Island, Inc., did not join in this offer of settlement). The essence of the settlement offer is:

- 1) the County rescind Lee County Ordinance No. 03-03 adopting the Pine Island Community Plan Amendments to the Lee Plan.
- 2) parties to the litigation may agree to use a Dispute Resolution Process to develop a revised Pine Island Community Plan for consideration by the Board. The cost of the dispute resolution process will be born collectively by the parties objecting to the current amendments and Lee County (50/50).
- 3) if the dispute resolution process yields a revised plan, the consensus plan will be reviewed by County staff and presented to the Board as part of the next round of regular amendments to the Lee Plan, or as a special amendment to the Lee Plan.
- 4) if no agreement can be reached after Dispute Resolution efforts, the original Pine Island Community Plan will be presented to the Board as a Lee Plan amendment. All parties to the settlement agreement, as well as the public, will have the opportunity to attend the adoption hearing and suggest revisions to the proposed amendments.
- 5) All parties to the litigation will bear their own fees and costs.

The Office of the County Attorney seeks direction from the Board on how to respond to this offer of settlement.