

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
August 6, 2015 MEETING**

The meeting of the **Southwest Florida Regional Planning Council** was held on **August 6, 2015** at the offices of the Southwest Florida Regional Planning Council - 1st Floor Conference Room at 1926 Victoria Avenue in Fort Myers, Florida. In the absence of Chair Bob Mulhere, Vice-Chair Don McCormick called the meeting to order at **9:03 AM**. **Mayor Willie Shaw** then led an invocation and the Pledge of Allegiance. Deputy Director, Jennifer Pellechio conducted the roll call.

MEMBERS PRESENT

- Charlotte County:** Commissioner Chris Constance for Commissioner Ken Doherty, Commissioner Tricia Duffy, Councilwoman Nancy Prafke, Mr. Don McCormick
- Collier County:** Commissioner Penny Taylor, Mr. Alan Reynolds
- Glades County:** Mr. Thomas Perry
- Hendry County:** Commissioner Karson Turner, Commissioner Don Davis, Commissioner Daniel Akin
- Lee County:** Commissioner Frank Mann, Commissioner Cecil Pendergrass, Councilman Forrest Banks, Councilman Jim Burch, Commissioner Katy Errington, Ms. Laura Holquist
- Sarasota County:** Commissioner Alan Maio for Commissioner Charles Hines, Commissioner Carolyn Mason, Councilman Kit McKeon, Commissioner Cheryl Cook for Mayor Rhonda DiFranco, Mayor Willie Shaw
- Ex-Officio:** Ms. Susan Lex for Ms. Sara Catala- FDOT, Mr. Phil Flood - SFWMD, Ms. Tara Poulton for Melissa Dickens - SWFWMD, Ms. Jennifer Carpenter for Mr. Jon Iglehart -FDEP

MEMBERS ABSENT

- Charlotte County:** Ms. Suzanne Graham
- Collier County:** Commissioner Tim Nance, Mr. Bob Mulhere, Councilwoman Teresa Heitmann
- Glades County:** Commissioner Weston Pryor, Councilwoman Pat Lucas, Commissioner Tim Stanley
- Hendry County:** Commissioner Sherida Ridgill, Mr. Mel Karau

Lee County: Councilman Mick Denham, Mayor AnitaCereceda

Sarasota County: Mr. Felipe Colón

Ex-Officio: None

**AGENDA ITEM #4
PUBLIC COMMENTS**

No public comments were made at this time.

**AGENDA ITEM #1
AGENDA**

Vice-Chair McCormick asked if there were any proposed changes to the agenda.

Ms. Wuerstle requested that both Agenda Item #9 and Agenda Item #10 be presented before any other item since the Director's Comments were very long and comprehensive.

By general consensus from the Council the agenda was approved as amended.

**AGENDA ITEM #6
Minutes of the May 21, 2015 & June 6, 2015 Meetings**

A motion was made by Commissioner Duffy to approve both the May 21, 2015 and June 6, 2015 minutes and seconded by Commissioner Constance. The motion then carried unanimously.

**AGENDA ITEM #9
CONSENT AGENDA**

A motion was made by Commissioner Constance to approve the consent agenda as presented and then Councilwoman Prafke seconded the motion. The motion passed unanimously.

**AGENDA ITEM #10
REGIONAL IMPACT**

Ms. Wuerstle explained that Mr. Dan Trescott of Trescott Planning Solutions would be presenting the following items.

**AGENDA ITEM #10(a)
City of North Port Comprehensive Plan Amendment (DEO 15-2 ESR)**

Mr. Trescott presented the item.

A motion was made by Mayor Shaw to approve staff's recommendations as presented and seconded by Commissioner Cook. The motion passed with Mr. Reynolds abstaining.

AGENDA ITEM #10(b)
Lee County Comprehensive Plan Amendment (DEO 15-1 ESR)

Mr. Trescott presented the item.

Commissioner Mann asked why the item was being presented to the Council at this time; when the Lee County BCC voted on the item at its last board meeting. Ms. Wuerstle explained that staff has 30 days for review and comment from the date that the application is received. Sometimes staff's comments are sent to DEO for their review prior to the application going before the Council. There is a timing issue between staff's 30 day review period and the schedule of the Council meetings. However, if the city/county has comments different than the comment supplied to DEO by staff, then the Council would send an amendment to the previous letter for DEO's consideration.

Discussion ensued.

After a brief discussion Commissioner Mann made a motion to accept staff's recommendations as presented. Councilman Burch seconded the motion.

Commissioner Errington stated that since the establishment of the Council for the Village of Estero; at its previous meeting the Village of Estero decided to not approve the resolution until the traffic study had been completed.

The motion passed.

AGENDA ITEM #10(c)
Lee County Comprehensive Plan Amendment (DEO 15-3 ESR)

Mr. Trescott presented the item.

A motion was made by Commissioner Pendergrass to approve staff's recommendations as presented. Commissioner Mann seconded the motion.

Councilman Burch stated that under DOT's review it was stated that they approve Lee County's traffic study. He asked if these plans would be combined. Mr. Trescott explained how they would be working together.

Discussion ensued.

Representing the applicant, Mr. Ray Blacksmith explained that the earliest that there would be any residents within the community would probably be in the last quarter of 2016. He also explained that the developer would have the responsibility for paying the proportionate share costs if improvements were needed.

Commissioner Errington said that she was concerned with the additional trucks going in and out of the community and the transportation impacts it would have. Mr. Blacksmith explained that one issue that they try to stress in their presentations was that over and above the proportionate share which they won't know until 2016; for the very first phase of construction the developer has agreed to install acceleration lanes in front of the existing preserve, i.e. Corkscrew development, Corkscrew Shores development and Bella Terra development, in order to assist those residents to enter and exist their developments safely.

Discussion ensued.

The motion passed unanimously.

**AGENDA ITEM #10(d)
Palmer Ranch Increment 24 Pre-application MDO Questionnaire**

Mr. Trescott presented the item.

A motion was made by Mayor Shaw to approve both the questionnaire and checklist for the Palmer Ranch Increment 24 Preapplication. The motion seconded by Commissioner Cook and passed with Mr. Reynolds abstaining.

**AGENDA ITEM #7
DIRECTOR'S REPORT**

Ms. Wuerstle presented the item, but first she introduced Martha Simmons as the Council's representative on the Estero Bay Agency for Bay Management (ABM).

Estero Bay Agency for Bay Management (ABM)

Ms. Simmons gave a background overview of how the ABM was created. During her presentation she stated that she didn't see any funding for the ABM within the Council's FY15-16 budget, so she hoped that would be a topic of discussion during the discussion of the Council's FY15-16 budget later in the meeting. She also gave a briefing on what the ABM had been working on.

**AGENDA ITEM #7(a)
RPC's Local Assessment Dues**

Ms. Wuerstle explained that she was asked how the other RPCs address their local assessment dues including the amounts. She stated that there was an attachment within the agenda illustrating that request.

**AGENDA ITEM #7(b)
RPC's FY14-15 Budget Amendment**

Ms. Wuerstle gave a brief background overview on how the distributed "amended" budget came about. She explained that there was a joint Executive & Budget Committee meeting and the handout reflected their recommendation to the Council.

Ms. Wuerstle explained that there will be a deficit of \$125,749 for the current fiscal year (FY14-15). She explained that there were many errors found when she and staff were reviewing the budget. Those errors were due to not double checking the work and as a result the budget columns within the Excel spreadsheet did not calculate the total correctly. She explained that an error of \$52,500 was discovered within the revenues and there was also an error with the fringe and indirect columns resulting in a negative \$426,000. She went on to state that the Council had started out their fiscal year with a \$373,000 deficit. However, staff was able to make-up 66% of that amount by bringing in additional revenue. Unfortunately there were additional layoffs of staff required because of the deficit.

Ms. Wuerstle noted that the budget that was included in the agenda packet showed an \$180,000 deficit and in trying to close the deficit she spoke to staff and they were willing to go to a four day work week until October 1, 2015. The savings of going to a four day work week would be \$17,000, but with risks. She explained the risk of going to a 32 hour work week would be the grant deliverables. If the deliverables are not met in order to bring in those grant revenues it could result in a greater deficit than \$125,749. At the joint meeting of the Executive Committee and Budget & Finance Committee it was decided that it wasn't worth the risk for the \$17,000. As a result \$125,749 needed to be taken out of the RPC's reserves in order to close the current budget. She noted that the Council has approximately \$481,000 in reserves.

A motion was made by Councilman Banks to approve the Executive Committee and Budget & Finance Committee recommendation for the FY14-15 budget as amended. The motion was seconded by Commissioner Constance and passed unanimously.

Ms. Wuerstle thanked both Jennifer Pellechio and Rebekah Harp for their hard work in trying to resolve all of the issues. She feels confident that staff will have the finances under control, with assistance from the Council's new CPA.

**AGENDA ITEM #7(g)
SWFRPC's FY15-16 Budget**

Ms. Wuerstle explained that in the past, she only included guaranteed/fixed funding; however, within the Council's proposed FY15-16 budget there is a line item entitled "Program Development/Unsecured Grants and Contracts" in the amount of \$100,000. This was based on the fact that over the last three years, staff was able to bring in additional revenue ranging from \$100,000 to \$300,000. She said that she is confident that staff can bring in \$100,000 in additional funds.

Ms. Wuerstle stated that the FY15-16 Budget was based on the current situation and she will be explaining the options that have been presented to staff, such as the sale of the building. There is a long-term debt of \$128,000 per year at this time. Based on the proposed budget showing an increase of \$100,000, there still would be a deficit of approximately \$135,000. In order to fill in that gap the Council would need to take more funds from their reserves.

Both the Executive Committee and Budget & Finance Committee both recommended adopting the proposed budget for FY15-16. However, budgets change on a weekly basis. She then

announced that since the joint meeting, staff has been notified that there are two written and two verbal grant awards totaling \$264,000 which would close the budget. She noted that when she receives the scope of work and contracts for those grants she will bring a proposed budget amendment to the Council for their approval.

Commissioner Turner encouraged staff that as the budget was being proposed that the line items are identical and carryover. He asked Ms. Wuerstle to give a brief summary of how the DRIs are recorded in the budget. Ms. Wuerstle explained that currently there is a DRI in the works, so she entered a conservative amount into the budget.

Commissioner Turner asked how the DRIs are broken down within the FY15-16 budget. Ms. Pellechio explained that all of the NOPCs, monitoring reports, etc. are combined into one lump sum.

Councilwoman Prafke asked staff if they could include some “budget notes” that would show planning assumptions on some of the line items. Commissioner Turner said that he agreed that there should be “footnotes” placed within the document in order to indicate which of the line items are solid versus assumption. Ms. Wuerstle said that she will add the footnotes before the budget is sent out.

Commissioner Constance stated that he felt that the budgets from the past 3-4 years should be included as a comparison. Ms. Wuerstle noted that there was 5 year “look back” within the document.

Discussion ensued.

A motion was made by Mr. Perry to adopt the SWFRPC FY15-16 Budget as presented. The motion was seconded by Councilman Burch and passed unanimously.

Ms. Wuerstle explained that the FY15-16 budget was based on the Council’s existing conditions and their current expenses. She noted that if the Council decided to sell the building or re-finance, the budget would improve.

AGENDA ITEM #7(c) Krise Building Valuation

Ms. Wuerstle noted that there was a meeting held by the Council’s Executive Committee to discuss various options in regards to the building. The Committee asked for a “broker’s opinion” on what they thought that the building would be worth. The opinion came back with an estimate of \$1,280,425.00. She said that the building is currently listed at \$1.4 million.

Commissioner Constance asked what the current payoff was. Mr. Wuerstle said that as of August 1st the balance was \$885,000. She noted that the comparisons were included within the agenda packet.

Ms. Wuerstle explained that there is an offer from 5/3 Bank for refinancing and if the Council went with that scenario the budget would go from a \$135,000 deficit to an \$89,000 deficit.

Commissioner Constance asked when the refinance offer was given. Ms. Wuerstle said that it was given back in April at a 3% interest rate for 5 years. Commissioner Constance asked if the offer was a 5 year fixed rate or a variable rate. Ms. Wuerstle said that it would be a 5 year fixed rate.

Commissioner Constance stated that he would like to see staff research in obtaining a 10 year fixed rate and then in 10 years that building would be paid off. He said that now is the time to refinance the building and the Council could probably get a 3 ½% to 4% interest rate over a 10 year fixed loan.

A motion was made by Commissioner Constance to direct staff to research finding a 10 year fixed rate mortgage.

Ms. Wuerstle explained that staff had reached out to several banks attempting to get an extended term loan and the best one was a 7 year loan at a higher interest rate. She said that she wasn't sure on being able to get a 10 year fixed loan.

Commissioner Taylor seconded the motion.

Ms. Wuerstle noted that the Executive Committee made a recommendation to sell the building. She noted that an offer to purchase the building did come in; however, the offer includes a lease back. She didn't feel that the lease back offer would work because it was a triple net lease. The investor said that he would still be interested in purchasing the building, but not without the lease-back.

Councilman McKeon explained that during the meeting with the Budget & Finance Committee and the Executive Committee it was discussed how the building is a liability. The general consensus was that the mortgage rates will not be any lower, whether it is a 5 year or 10 year mortgage. It was recommended that the Council immediately start the refinance process so we know what we are dealing with. The second part of the discussion contained a recommendation to aggressively try to sell the building in order to get out from underneath the monthly payment in order to minimize the Council's costs.

Commissioner Cook explained that the City of North Port does have approximately 2,000 square feet available within the city hall building in North Port.

Commissioner Duffy stated that she agrees with the recommendation from the Executive Committee.

Vice Chair McCormick stated that there were two items pertaining to the building that the Council needs to be aware of. Without an elevator the Council is not in compliance with the ADA laws; and the replacement costs for the air conditioning system.

Commissioner Constance asked Ms. Wuerstle for the details of the proposed 5-year refinance loan, such as what the percentage rate was and the term it was amortized over. Ms. Wuerstle stated that she has that information, but could not put her finger on it at the moment. It was later supplied to Commissioner Constance.

Vice Chair McCormick stated that as near as he can tell procedurally the Council could approve the proposed motion and still end up with having to sell the building.

Commissioner Turner said that there won't be a bank anywhere that would touch the building with a 10 year note. He said that he was in agreement with the Executive Committee's recommendation to aggressively try to sell the building.

Commissioner Constance explained that one of his deepest concerns is that if the Council doesn't have its own permanent residence that it would be then a far easier target to abolish the RPC. He then said that he will always be an advocate for the RPC. The RPC is the only entity where local governments can sit at one table and be able to discuss the issues that each of them is facing. He noted that he wouldn't be able to have the Charlotte County BCC go to the Hardee County BCC and actively legislate, because the Charlotte County BCC would be in violation due to the fact that their public wouldn't be allowed.

Commissioner Constance went on to state that since the governor is not interested in funding the RPCs; that the members of the Council need to make sure that their RPC remains healthy to the point that before this meeting is over there needs to be a discussion on having to increase the local assessment dues or do something to show how important the RPC is to its individual cities and counties. Both the federal and state governments are trying to take the RPC's authority away, so it is up to the membership to stand up and make sure that it is realized that all politics are local.

Mr. Reynolds stated that in previous discussions there was mention of having to sell the building. He explained that he felt that there are two different situations here, principal versus practical point of view.

Ms. Wuerstle explained that she had conversations with the Council's Auditor, Jeff Tuscan, and invited him to attend the Council's September meeting to discuss the refinancing issue. If the Council decided to put the building on the market there needs to be a time frame established on when we need to start the refinancing because it is going to take at least 4 months to get everything in place. The balloon payment for the current note is due in June 2016 and there are certain requirements within the loan regarding the Council's reserve levels.

Ms. Wuerstle stated that she believed that the Council should move forward with refinancing in case the building doesn't sell within the established time frame.

Councilman Burch stated that he agreed with Commissioner Constance's statements. He then went on to say that it comes down to "survivability". He believed that the RPC could become stronger in the future. The Council shouldn't be worrying about its asset but more on the organization and what it does. It is up to the members of the Council to show why the RPC is so valuable to its cities and counties.

Discussion ensued regarding the refinance and sale of the building.

Commissioner Constance asked Ms. Wuerstle the balance of the current loan on the building. She said that it was \$885,000. Commissioner Constance then said that if the Council raised their dues, only one time, from \$0.30 per capita to \$0.56 per capita the building could be paid off.

Councilman McKeon said that option has never been discussed.

Commissioner Constance amended the motion to state that staff proceeds forward with refinancing the building with the best terms and interest rates possible. Commissioner Taylor agreed to the amendment to the original motion. The motion passed with one opposed.

A motion was made by Councilman Burch to accept the Executive Committee's recommendation entertaining the sale of the building. The motion seconded by Councilman Banks.

Commissioner Mann asked if there was already a designated realtor regarding the sale of the building. Ms. Wuerstle explained that it requires the Council to advertise the sale of the building in all six counties for two weeks. Commissioner Mann asked if the resolution within the agenda packet pertains to starting the process of selling the building. Ms. Wuerstle explained that the building is listed with a realtor at \$1.4 million. However, the Council really can't review any options until the building has been properly advertised.

Commissioner Mann asked how long the building was to be listed with the current realtor is. Ms. Wuerstle said that it is until November. Commissioner Mann explained that the motion needs to include the approval of the resolution within the agenda packet.

Vice-Chair McCormick restated the motion as:

A motion was made by Councilman Burch and seconded by Councilman Banks to adopt the resolution as presented to sell the building.

Discussion ensued on the proper ownership of the building. Is it the six counties or the "regional planning council"? Councilman Burch explained that the RPC is defined with its member units, which are the six counties.

Commissioner Constance stated that it is going to come down to how the interlocal agreements define RPC. When such issues arise, is it by a unanimous or majority vote. Commissioner Mann stated that he was under the understanding that the Council does not need amenity to pass the motion at this point in time. He said that if and/or when the building is sold then there should be a unanimous vote. Commissioner Constance recommended that staff research that issue and deliver the answer to the Council as soon as possible.

The motion passed unanimously.

Councilman McKeon stated that before the September Council meeting he would like to know what the financial impact would be from Commissioner Constance's recommendation of increasing the local assessment fee one time in order to pay off the building. Since Sarasota County pays for all of their municipalities and the other five counties such an issue needs to be brought before their boards for review and discussion. He felt that it would be a worthy issue for the

counties to discuss with their boards, especially since many are currently putting their next year budget together.

Vice-Chair McCormick suggested that a letter be sent from the Council's chair to each of the six counties explaining the Council's recommendation of the one-time \$0.56 per capita payment in order to have the building paid off. Mr. Perry stated that the letter needs to have "clear" direction of what is being asked of the counties.

Commissioner Mason stated that she was in agreement of having a letter sent to each of the six county commission boards. She then noted that Sarasota County begins their budget workshops on August 21st and then two boards of county commissioners meetings shortly after the budget workshop. It would give Sarasota County the opportunity to be able to discuss the issue in the appropriate forum.

A motion was made by Councilman McKeon to have the Chairman of the RPC send a letter to each of the six county commissions, including the estimate of what each county would be asked to pay. Commissioner Constance seconded the motion with the added language of the payoff amount on the building and how it is divided by per capita and what each county would be responsible for paying.

Commissioner Pendergrass questioned on what would happen if one or two of the counties decided against the one-time assessment increase. He then said that there is still an issue of the "free seat", where there is no clarification on which cities pay and don't pay assessments.

Commissioner Constance stated that if one county voted against the one-time increase then the issue would be null and void because there has to be a unanimous vote among all six counties. He noted that within the letter it will state which cities would be responsible for paying and which cities don't pay.

Commissioner Cook said that there are members of the Council from local governments, but there are also other agencies and governor appointees. She asked if the state agencies and governor appointees pay assessment fees. Vice-Chair McCormick explained that the ownership of the building falls upon the six counties on a per capita basis. Commissioner Cook said that she may be misunderstanding the make-up of the RPC; but since there are governor appointees and ex-officio members (FDOT, FDEP, SWFWMD and SFWMD) are not required to pay any assessments. Councilman Burch stated that the Council's Interlocal Agreement and By-Laws Committee will be discussing that issue.

Mr. Reynolds asked what exactly is the letter going to ask for from each of the counties. Is the letter going to mainly focus on asking the counties to approve the one-time assessment fee increase or is it going to contain the full information on the range of options that would be available. Commissioner Constance explained that the letter will contain all options; such as, option to sell, to lease, etc. However, there will be another option where the counties agree to a one-time increase in the assessment in order to pay off the building. He then explained that after the Interlocal Agreement & By-Laws Committee meet it should be decided on whether or not the cities would also pay the increase; especially since some cities pay and some do not because their county pays the assessments.

Commissioner Duffy asked if the cities were required to pay by Florida Statute. Ms. Wuerstle explained that the Council's by-laws and interlocal agreement are totally inconsistent; however, there is a provision in the by-laws that state that if the cities are at the table they are required to pay their share, which is then deducted from the county's assessment.

The motion carried unanimously.

**AGENDA ITEM #7(h)
FRCA Discussion & Question**

Ms. Wuerstle presented the item. She explained that when the joint Budget & Finance Committee and the Executive Committee met there was an update given on FRCA's Policy Board meeting. From the discussions there were a few questions that they felt should be asked of FRCA, but they wanted to bring it back to the full board to have their input on whether or not the questions should be asked.

Question 1: The committee discussed the issue relating to Florida's Sunshine Laws and how the Executive Directors meetings are not open to the public and are not required to follow the Sunshine Laws. There was discussion on this issue since the RPCs receive public funds that those meetings should be subject to the Sunshine Laws.

Question 2: The committee decided to send a letter to FRCA's Lobbyist, Ron Book asking these questions and also asking questions regarding his contract with FRCA. The question was whether the contract was going to be renewed and if so, would it be based on performance since he hasn't been able to secure funding for the RPCs in the last four years.

Commissioner Cook asked for clarification on Question 2 regarding Ron Book's contract. Ms. Wuerstle explained that the question really is whether or not Ron Book's contract with FRCA should be renewed based on the fact that he hasn't been able to secure the State funding for the RPCs in the last four years.

Ms. Wuerstle explained that the RPC's dues for FRCA are \$20,500 in order to be a member of FRCA. She explained that Ron Book is both FRCA's lobbyist and executive director and his salary is \$85,000 plus \$5,000 for travel.

Commissioner Turner stated that Ron Book "plays the game as good as anyone else in Tallahassee" and he has been successful in the past. He also is very good friends with the governor and it takes only 30 seconds on Google to find out what both he and his daughter were able to ascertain within the current year from the State. He agrees with the committee's decision because as far as FRCA goes Ron Book hasn't been successful in the last four years, so why should FRCA be paying \$90,000 to Ron Book with no positive outcomes. He said that he felt that FRCA looks at the Southwest Florida Regional Planning Council as the "redheaded step child" since Withlacoochee was eliminated and also the SWFRPC has questioned FRCA on many things. He said that he doesn't know how to handle the situation, but he agrees that something needs to be done.

Ms. Wuerstle announced that at FRCA's last Policy Board meeting, Commissioner Lee Constantine was elected as the new chairman for the Policy Board. She said that he had a very different view of FRCA and he also reviewed the organization chart and stated that it is listed that the Executive Directors work for the Policy Board and not the other way around. He stated that he will start attending the meetings and also invited other Policy Board members to attend the Executive Directors meetings. She said that she felt that it was a very good thing electing a new Chairman and felt that there will be changes coming down the pipeline.

Discussion ensued regarding the changes that have been made and are going to be made within FRCA.

Councilman McKeon said that he supports Commissioner Turner's concerns. He said that it was obvious that Ron Book and the governor are well connected. If he sees that the governor wasn't going to fund the RPCs that Ron Book wouldn't do anything that would jeopardize his efforts. He also said that he is looking forward to the changes under the new leadership in FRCA.

Councilman Banks stated that when the Council sends FRCA their dues that a letter should be included stating that the Council is looking forward to the new leadership.

**AGENDA ITEM #8
STAFF SUMMARIES**

Ms. Wuerstle stated that this item was for information only.

**AGENDA ITEM #11
COMMITTEE REPORTS**

**AGENDA ITEM #11(a)
Budget & Finance Committee**

Commissioner Duffy asked for clarification on the remaining balance of \$15,000 was not included within the FY15-16 budget. Ms. Wuerstle explained that she had discussions with FRCA and they have decided to extend the option of making payments when other funding sources come in.

**AGENDA ITEM #11(b)
Economic Development Committee**

Councilman Banks stated that he didn't have a report to give on the Economic Development Committee; however, he would like to speak on transportation when the item comes up for a report. He noted that he had a meeting with FDOT's Secretary and discussions included a Regional Transportation Plan and how to get it started.

**AGENDA ITEM #11(c)
Energy & Climate Committee**

Vice-Chair McCormick stated that there was no report to give at this time.

AGENDA ITEM #11(d)
Estero Bay Agency on Bay Management (EBABM) Committee

Mr. Beever announced that the next meeting of the ABM was scheduled for next Monday. Discussions included FGCU Master Plan and the Corkscrew Woods project. He then said that he was asked to inquire where the funding was within the FY15-16 budget for the ABM.

AGENDA ITEM #11(e)
Executive Committee

No report was given at this time.

AGENDA ITEM #11(f)
Legislative Affairs Committee

Vice Chair McCormick stated that he didn't have a report to give, but he expressed concern that there may be damaging legislation to the RPCs where it would give local governments the option to withdraw from the RPC.

AGENDA ITEM #11(g)
Quality of Life & Safety Committee

Vice Mayor Shaw announced that he would like to have a presentation on community policing be given to a future meeting of the RPC.

AGENDA ITEM #11(h)
Regional Transportation Committee

Ms. Wuerstle announced that a committee meeting hadn't been held. However, she then announced that the RPC was awarded a grant of \$39,000 for a project to look at the region's railways. Ms. Pellechio explained that the RPC would be partnering with the Charlotte, Collier, Lee, and Sarasota-Manatee County MPOs to look at the rail corridor spur.

AGENDA ITEM #11(i)
Interlocal Agreement Committee

Councilman Burch explained that the committee was formed due to concerns of inconsistencies between the RPC's by-laws and interlocal agreement. He stated that the committee had met and came up with a very strong opinion. He explained that he had written a report and if any member hasn't received one, to please get a copy from staff.

Councilman Burch explained the major conflicts that rose from the committee's discussions. The interlocal agreement originated in November 1973 and it was executed by all six counties and it was believed to be recorded. Then in 1980, an amendment to the original document was recorded

to be the original, but also was rewritten. The issue that arose was that the 1980 amended document is what the Council's currently operates from, however, the 1973 document which was recorded as being the original somehow was rewritten. It was noted that there were sections that are very similar to the 1973 document and then there are other sections which are very different.

He continued by stating that the Council currently operates under the 1980 amended document. In 2004, all of the counties were brought together for the process of purchasing the building and it was recommended that the interlocal agreement be recorded within each county. With that direction, the counties recorded the "second original" along with the 1980 amendment. The problem was that at the end of the document it was attested to be the original document, but in actuality it wasn't the original document.

Councilman Burch stated that there were also many other inconsistencies, such as:

- How membership was defined; and
- Between the administrative code, two interlocal agreements, and the by-laws, there are four different ways on how the Council could make amendments to their laws, i.e. majority, simple majority, 2/3, and 3/4 depending on which document is being read.

During their meeting the committee discovered that those documents essentially contain what the statutes contain. It is very important that the statutory requirements, in which the Council operates under, are part of both the by-laws and interlocal agreement. The committee then discussed how they could come up with the statutory language and either work with a new interlocal agreement or work off the current interlocal agreement. It was the consensus of the committee that since there was so many inconsistencies within the documents that they are probably not the best way to start with.

AGENDA ITEM #11(j) Future of the SWFRPC Committee

The committee discussed how many other things the Council does that are not statutory requirements.

The committee said that if they were to go that far and really discuss the future of the SWFRPC; the committee recommended having the Council members bring it before their boards for review. The committee decided to put together two documents. The first document would contain a list of the Council's requirements (statutory mandates and/or optional tasks). Also, a list of future items of interest would be prepared.

Councilman Burch explained that staff had created a survey monkey, which is a very simple process and hoped that the members would bring it before their boards to receive their input. During those discussions the committee also discussed several issues that have arisen:

- Funding, why the Council is funded this way.
- The per capita of \$0.30 has never been increased since the inception of the SWFRPC.

Councilman Burch pointed out that within both the Council's interlocal agreement and by-laws it is very clear in stating that the member units are defined as being the six counties. Cities are allowed to participate and by their choosing they can participate in ways of paying assessments or in other ways by being selected by a group of municipalities as a non-paying member. He said that since the RPC hasn't been funded by the State that it wouldn't make any sense to take the document and try to mold the funding out of the document. That will have to be defined by the Council for itself, perhaps by starting with the \$0.30 per capita or some other rate that staff had suggested.

Councilman Burch said that the committee discussed whether there was a need due to the lack of funding and the issues that have risen regarding the budget. Is there the need for cities to pay more or pay uniformly? No answers or resolutions were given on how to do it; the conversation will have to be held on how the Council would be funded. There was also the discussion on membership terms and once again there is a difference between the interlocal agreement and bylaws. It is a statutory requirement that the counties be a member of the Council.

Councilman Burch stated that it basically comes down to "how is the Council going to be funded". If the Council can't fund itself, the cities and counties are still going to exist but they would be divided among the remaining RPCs. Then you would be talking about dying a much slower death being divided among the other RPCs (South Florida RPC, Central Florida RPC and Tampa Bay RPC). There was a discussion of the "right to terminate" where there is a possibility or likelihood that a piece of legislation will be drafted during the next legislative session where the counties could opt out of being a member of an RPC. He said that even if one or two counties decided to opt out then the SWFRPC would be done because it would require the Council to eliminate certain grant funding. He said that he felt that this discussion needs to be held and a vote taken on whether or not we would support any type of legislation that would allow counties to opt out of being a member of an RPC. Also, if there would be enough time to prepare a resolution to oppose the legislation; because currently they are statutorily required to be a member of an RPC and if a county does choose to opt out then the SWFRPC would become too weak to exist or just dissolve.

In closing, Councilman Burch strongly recommended that the members take the information back to their boards and ask them to participate. He said that he felt that the biggest problem is it hasn't been done and that the councils/commissions are not engaged with the Council. If there was really good participation from the city councils and county commissions then the Council would know which direction to go in.

Commissioner Taylor stated that she took the initiative to ask Collier County staff what their concerns are and what they would like to see the RPC do. They came back with something that wasn't included in the documents provided. They said that they would like to see the issue of sea level rise continue on a regional basis, as well as a regional fertilizer ordinance. She then thanked the committee and staff for all of their hard work in putting together the documents because they were clear to understand and make decisions.

Commissioner Constance thanked Councilman Burch, committee members and staff for their efforts. He went on to explain that the possibilities of the demise of the RPC are **dire and irreversible**. If counties are opting out, lose funding, or striped away and placed with other RPCs, we would never be able to reconstitute the SWFRPC. It is critical that the SWFRPC survives. He noted that by looking at the other healthy RPC's dues, such as, Treasure Coast RPC \$784,000 per

year; Tampa Bay RPC \$927,000 per year; South Florida RPC \$755,000 per year; and Northeast Florida RPC \$623,000 per year. So to get up into that range and become healthy, the SWFRPC would have to increase their dues from \$0.30 to \$0.50 per capita. Since those rates were developed in 1973, costs have increased. This is local government supporting local government in order to make sure that we continue to have a voice when others are trying to strip us of it.

Mr. Perry asked if there was any consideration in adding questions in the survey about funding. Such as, the individual cities and counties are contributing enough or not enough to the RPC. Councilman Burch explained that the committee discussed the funding mechanism and has decided that this particular document should be on “how the RPC operates”, because we just haven’t gotten past that issue at this time. The work will be the participation and having everyone participate and getting others to participate as well. Then that information would be compiled and placed into a document which will describe what the SWFRPC really wants to be.

Commissioner Constance stated that Southwest Florida is the next major growth part of the State. There are no more places to build-out in the southeast. Most the areas north of Orlando can get a little too cold, so it is moving south to having a Lakewood Ranch expansion and the major expansions east of I-75 near Lee County, and there are all kinds of growth in Charlotte County. Within the next 30 years southwest Florida is where things are going to grow and happen.

Councilman Burch announced that both Naples and Cape Coral have been selected as being the #1 and #3 job generators over the next several years. Commissioner Cook announced that both the City of Cape Coral and the City of North Port have been chosen as the top ten cities within the country. She said that she agreed with Commissioner Constance’s comments and we need to take into account that not only on the State level, but also on the national level that southwest Florida is being noticed, so this RPC needs to stay together. We also need to keep presenting what people are taking an interest in which is a cohesive plan to recognize smart growth, watershed, water quality, etc.

Commissioner Pendergrass asked Commissioner Constance if the other RPCs are charging the same \$0.30 per capita. Commissioner Constance explained that the healthy RPCs, such as Treasure Coast RPC charges \$0.43 per capita; South Florida RPC is only \$0.17 per capita, but they have a lot more people within their region; and Northeast Florida RPC charges \$0.41 per capita. Commissioner Pendergrass asked if the cities within those regions pay assessments. Ms. Wuerstle explained that she had asked that same question and was told that they do not. Ms. Wuerstle explained to Commissioner Pendergrass that out of the RPCs that replied back to her none of them have their cities pay assessments.

Councilwoman Prafke announced that Charlotte County and the City of Punta Gorda was listed as being within the top 18 within the nation for economic growth.

Commissioner Duffy thanked Councilman Burch and his committee for all of their efforts and how the document was prepared being easy to read and understand. She then stated that she felt that the primary statutory duties of the RPC are most important. She said that the SWFRPC has to continue to be a strong organization.

Discussion ensued.

Vice-Chair McCormick stated that he needed to end the discussion at this point due to time limits.

AGENDA ITEM #12 NEW BUSINESS

Ms. Wuerstle announced that there was a joint meeting of the Executive Committee and Budget & Finance Committee, and there were others involved. Staff was asked to leave the room and there was an in-depth discussion regarding the future of the RPC and whether or not she was the proper person to be leading the agency. She stated that if there was a problem with her performance to please bring it to her attention. She hadn't received anything from any of the members stating that they felt her performance as executive director was not satisfactory. She stated that it was requested that an "Executive Session" be held; however, there wasn't enough time to advertise properly, so she was directed to place it on the agenda for discussion.

Commissioner Constance stated that he is a big proponent of Ms. Wuerstle's leadership. When she was hired approximately 3 ½ years ago, the RPC was going through some serious financial issues, there wasn't any DRIs coming in, lost the Lee County MPO as a tenant, etc. It has been a rocky road in which Ms. Wuerstle had to negotiate and she still manages to pull forward a budget, even with a loss, but it is there in black and white as to why it has been happening. He said that he has complete confidence in Ms. Wuerstle being the Council's Executive Director, but what he doesn't understand is how the Executive Committee could hold a meeting that didn't follow the State's Sunshine Laws. He noted that when the Charlotte County BCC discusses issues about their attorney, administrator and even the economic development director it all has to be within the Sunshine. He stated that he didn't know if the joint meeting w/o staff being present was a legal meeting. He also said that he would like to hear from anyone who attended that meeting as to what exactly was discussed in meeting.

Mr. Perry stated that he attended the meeting but he wasn't aware of any issues regarding the State's Sunshine Laws; however, there was a very robust discussion about the Council's executive director, but he didn't believe that there was a consensus one way or another from the group. There was a strong push from some of the members to have the issue brought before the full Council.

Both Vice-Chair McCormick and Councilman McKeon stated that they were also in attendance. Commissioner Constance asked for them to give their versions of what happened at the meeting. Vice-Chair McCormick stated that he did not initiate the meeting; he attended the meeting, but didn't know what the subject was going to be. He then said that he felt that Mr. Perry gave a very good summary of what had occurred during that meeting. It was an open discussion without any resolution and he was uncomfortable at the meeting.

Councilman McKeon stated that he didn't even realize what was happening until "the apple fell into the punch bowl". He said that generally speaking, there was probably consensus amongst the majority of the members in attendance in support of Commissioner Constance's statement supporting the performance of the executive director.

Commissioner Constance stated that if there were any members who would like to give their comments to speak now; otherwise, he doesn't feel that the subject should be brought up again. He then referred to Commissioner Duffy's comments regarding having to bring the survey before each city and county board; the Charlotte County BCC discusses the water authority board meeting agenda before the county commissioner goes to the meeting. They also now discuss the WCIND meeting agendas before any county commissioner attends the meetings, because it is the responsibility of the county commissioners to know everything that happens before the county's representative attends the meetings. He has requested the county administrator start placing the RPC's agenda on the commission agenda in order to be able to have a discussion prior to the meetings. At the end of the day we are paying for it, the taxpayers are paying for it, and we are all responsible for decisions being made at the meetings. He urged all of the council members to go back to their board and have the RPC's agenda placed on their agenda for discussion every month.

Commissioner Duffy said that she also supports Ms. Wuerstle. She has been a member of Council for a long time and remembers how bad things were in the past and how Ms. Wuerstle has been able to pull this Council back together.

A motion was made by Commissioner Duffy and seconded by Councilman Banks to being in full support of Ms. Wuerstle's performance as Executive Director of the SWFRPC. The motion passed unanimously.

Commissioner Turner said that there is a human element that is affected within the Council and that is staff needs to be taken into consideration. He continued by saying that Ms. Wuerstle has brought stability and there have been very hard discussions held. He asked that every member of the Council take into consideration that if they are going to feel the need to have this type of discussion; then in a professional manner go to the executive director and vet out the issue(s) in a private manner and also engage in the correct processes; and finally, bring it before the full Council. He finished by stating that he didn't agree with how the issue was handled.

Ms. Wuerstle thanked the Council for their support.

AGENDA ITEM #13 STATE AGENCIES COMMENTS/REPORTS

Vice-Chair McCormick stated that the agency representatives on the Council are a very vital asset to the Council and he thanked them for their efforts.

SFWMD - Mr. Flood announced that it is expected that the SFWMD Governing Board will be awarding the first construction contract for the C-43 reservoir.

SFWMD - Ms. Poulton announced that as of August 5 the SFWMD Cooperative Funding Initiative Program has opened up to accepting applications for FY17. Eligible applicants include local governments, non-profits, and other operators within the SFWMD's district from Charlotte County and above. The deadline for applications is October 2, which is the first Friday in October. It is a cost share program where the District would fund projects up to 50% if the project fits into the District's area of responsibility.

Commissioner Constance asked Ms. Poulton since Charlotte County's Water Authority submitted three projects that they recently approved, but the ranking was currently tentative. The rankings will be discussed at their October meeting. The question was asked that if the rankings change at the October meeting, can the ranking be changed within the applications that were submitted to the District. Ms. Poulton replied yes, the rankings order needs to be submitted within the application, but can be changed.

FDEP - Ms. Carpenter stated that a lot of the issues that arise within Southwest Florida do require regional solutions.

FDOT - Ms. Lex thanked those members who participated within FDOT's FTP workshops. FDOT will continue to keep the Council updated on the upcoming workshops.

**AGENDA ITEM #14
COUNCIL ATTORNEY'S COMMENTS**

No comments were made at this time.

**AGENDA ITEM #15
COUNCIL MEMBER'S COMMENTS**

Councilman Burch announced that his daughter just had a baby girl and he is a grandfather for the first time.

Mr. Perry stated that there was a strong show of confidence for the Council's Executive Director; however, at the joint meeting that was held with both the Executive Committee and Budget & Finance Committee, there was an offer by the staff of the RPC to cut their hours back to 32 hours. One of the valuable principals that the committee decided was not to consider that option and was really appreciative of the staff and their efforts.

Commissioner Constance stated that he had forgotten how much he really liked being a member of the RPC. He went on to say that the RPC is a vital part of the region.

Commissioner Constance then said that in regards to the "regional visitor center" there have been discussions on how it would be funded. The \$9 million price for the property is now either \$2.6 or \$2.8 million since it was appraised. He explained that Charlotte County will be going before the legislature to see if they could get the plan set aside for the upcoming session. However, it may not be possible for the municipalities to come up with the funding in order to run the operation. So what it is going to take is everyone around this table to sit down and say that they support the project and then actually receive some of the funding that would be coming from the State to our areas to be "shaved off" and placed in a pot to actually support and run the entity. He finished by saying that is why the RPC is so important.

Councilman McKeon said that he has assumed that everyone has read the write-ups regarding FPL's attempt to get the legislature to approve legislation stating that for any utility relocation the local municipalities would be responsible for the costs. He explained that both the Manasota

League of Cities and the Florida League of Cities have stated that it would cost the municipalities tremendous amounts of money if it were to pass.

Councilman Burch noted that he was the current Vice-Chair of the Florida League of Cities Transportation Committee and the utility relocation issue is their top priority. On August 19th there will be a webinar with a PowerPoint presentation to describe what significance the legislation would be and how it would affect the local municipalities.

**AGENDA ITEM #16
ADJOURNMENT**

The meeting adjourned at

Councilman Forrest Banks, Secretary

The meeting was duly advertised in the July 27, 2015 issue of the **FLORIDA ADMINISTRATIVE REGISTER**, Volume 41, Number, 144.