

**MINUTES OF THE  
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL  
APRIL 17, 2008**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **April 17, 2008** at the Southwest Florida Regional Planning Council at 1926 Victoria Avenue in Fort Myers, Florida. The meeting was called to order at **9:05 am** by **Chairman Andrea Messina**. **Commissioner Kenneth Jones** led the Prayer and the Pledge of Allegiance. Administrative Services Specialist Nichole Gwinnett conducted the roll call.

**MEMBERS PRESENT**

**Charlotte County:** Commissioner Adam Cummings, Councilmember Marilyn Smith-Mooney, Ms. Andrea Messina, Mr. Alan LeBeau

**Collier County:** Commissioner Jim Coletta, Commissioner Frank Halas, Councilman Charles Kiester, Councilwoman Teresa Heitmann, Ms. Laura Holquist

**Glades County:** Commissioner Kenneth “Butch” Jones, Commissioner Paul Beck, Dr. Edward Elkowitz

**Hendry County:** Mayor Paul Puletti, Mr. Melvin Karau

**Lee County:** Commissioner Bob Janes, Councilman Tom Babcock, Mayor Mick Denham, Mayor Jim Humphrey, Mayor Eric Feichthaler

**Sarasota County:** Commissioner Shannon Staub, Commissioner Paul Mercier, Commissioner Jim Blucher, Mr. David Farley

**Ex-Officio Members:** Mr. Johnny Limbaugh - FDOT, Mr. Jon Iglehart - FDEP, Ms. Dianne Davies - SWFWMD, Mr. Phil Flood - SFWMD

**MEMBERS ABSENT**

**Charlotte County:** Commissioner Tom Moore

**Collier County:** Ms. Patricia Carroll

**Glades County:** Councilman Michael Brantley

**Hendry County:** Commissioner Janet Taylor, Commissioner Bill Maddox, Mayor Mali Channess

**Lee County:** Commissioner Brian Bigelow

**Sarasota County:** Councilman Ernie Zavodnyik, Mr. George Mazzarantani

**Ex-Officio Membership:** Ms. Janet Watermeier – Watermeier Consulting & Property Services

### **INTRODUCTION OF NEW MEMBERS**

Chairman Messina introduced the following new members:

- Councilman Tom Babcock, Town of Fort Myers Beach
- Councilwoman Teresa Heitmann, City of Naples
- Mayor Ben Nelson, City of Bonita Springs

### **AGENDA ITEM #3 CONSENT AGENDA**

Commissioner Coletta pulled Consent Agenda Items #3 (c), (e) and (f) for discussion purposes.

**Mr. LeBeau moved and Councilmember Smith-Mooney seconded to approve the consent agenda as amended: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for March 31, 2008; Agenda Item #3(d) Harborview DRI – 28 Day Sufficiency Response Extension Request; and Agenda Item #3(g) Toll-Rattlesnake DRI – 90 Day Sufficiency Response Extension Request The motion carried unanimously.**

### **AGENDA ITEMS #3(c), (e) AND (f) City of Marco Island/City of Punta Gorda/City of Cape Coral Comprehensive Plan Amendments**

Commissioner Coletta explained that the reason that he pulled the items was the concern he had for affordable housing.

Mr. Crawford of staff explained that Commissioner Coletta is correct in his assessment on affordable housing. He then briefly reviewed each of the items as presented.

Commissioner Coletta recommended a statement be added for affordable housing to each future comprehensive plan amendment review. Mr. Crawford stated that it can be done if the Council directs staff to do so.

**Commissioner Coletta moved and Mr. LeBeau seconded to recommend approval of staff recommendations for Consent Agenda Items #3 (c), (e) and (f) with the additional statement added to each future staff report for affordable housing.**

Mr. Crawford suggested also adding an additional statement to staff's report for water quality.

Councilmember Smith-Mooney stated that the City of Punta Gorda would be in concurrence with the Council's motion.

Mayor Denham stated that he would support Mr. Crawford's suggestion in amending the motion to include a statement on water quality.

Chairman Messina asked Commissioner Coletta and Mr. LeBeau if they would amend their motion to include the statement for water quality. They both agreed to amend their original motion.

**Commissioner Coletta moved and Mr. LeBeau seconded to recommend approval of staff recommendations for Consent Agenda Items #3 (c), (e) and (f) with the additional statements added to each future staff report for affordable housing and water quality.**

Mayor Feichthaler referred to page 6 of Consent Agenda Item #3(f) City of Cape Coral Comprehensive Plan Amendments and noted that the Land Use Subject Site 07-15024 refers to the site being off of Santa Barbara Boulevard when it is really located off of Del Prado Boulevard in the first paragraph.

**The motion carried unanimously.**

**AGENDA ITEM #4  
THE LOOP DRI – STAFF ASSESSMENT – Mr. Jason Utley**

Mr. Utley of staff gave a PowerPoint presentation on The Loop DRI Staff Assessment.

Commissioner Halas asked how long are the affordable housing units going to stay within the inventory. Mr. Utley replied that it has been left up to the local jurisdiction.

Commissioner Staub asked if the green buildings will be certified either through LEEDs or Florida's Green Building Coalition. Mr. Utley replied yes.

Mr. Blucher referred to the platted lot section and stated that there was no local government intervention as the developers assembled that section. Mr. Brown, the applicant's representative, explained that it was all private ownership.

Commissioner Halas suggested requesting the developer install a pedestrian bridge over Jones Loop Road for the residents to be able to reach the commercial side of the development. Mr. Utley explained that staff had discussed the issue with the applicant and it was decided that it was a cost prohibited measure. However, the applicant is proposing to have some form of a crosswalk with a refuge in the center in the event the pedestrians are unable to cross over the right-of-way. Mr. LeBeau asked what the proposed speed limit is. Mr. Utley replied 45 mph.

Commissioner Halas asked if the City of Punta Gorda utilities will supply the development reclaimed water. Mr. Utley replied that he doesn't believe that the utilities currently has the capacity to supply reclaimed water; however, staff recommended putting in the infrastructure and when reuse water becomes available the infrastructure will be in place.

Mr. LeBeau asked if another fire station is being proposed. Mr. John Gibbons of staff explained that there is a mutual aid agreement between the City of Punta Gorda and Charlotte County fire departments and the response time to the site has been estimated to be between 3-5 minutes, so at this time there is no need for another fire station.

Mr. LeBeau asked if any improvements are being proposed for Taylor Road. Mr. Heatherington stated the applicant will be able to address that issue.

Dr. Elkowitz asked who is going to be responsible for the safety and traffic lights for the pedestrian crossings. Mr. Utley stated that he would have the applicant address Dr. Elkowitz's concerns.

Mayor Denham referred to page 31 regarding wastewater collection and transmission. He asked if the facility will be an advanced wastewater treatment facility and will it eliminate nitrogen from the wastewater as per the recommendation of the Council's Resolution 2007-02. Mr. Beever explained that he doesn't believe that the facility at this time is AWT, but when the facility's system is retrofitted it will be brought up to the higher treatment standard.

Commissioner Halas stated that he believes that the developer should be held accountable for providing a pedestrian bridge, especially when there are children involved in a residential area crossing a six-lane roadway. He doesn't believe providing a crosswalk is a sufficient alternative.

**AGENDA ITEM #6(a)**  
**Connecting With Nature Presentation (9:45 am)**

**Mr. Jim McLaughlin, WGCU TV**

Mr. Heatherington introduced Mr. McLaughlin who was also the host of the Council's 30<sup>th</sup> Anniversary celebration.

Mr. McLaughlin gave a verbal presentation on his new program "The Connect" and invited everyone to tune into WGCU TV on Friday nights at 8:30 pm; Saturday nights at 6:30 pm; and Sunday nights at 11:00 pm.

**Dr. Bill Hammond, FGCU**

Dr. Hammond gave a PowerPoint presentation on "Children and Nature."

Mr. Heatherington announced that staff has been working with the City of Fort Myers in researching the possibility of painting an environmental mural on the exterior eastside wall of the building. Staff has been working with Ms. Denise Demper with respect to the City's regulations and he will keep the Council up-to-date on the mural's status.

**AGENDA ITEMS #1 & 2**  
**AGENDA & MINUTES OF MARCH 20, 2008**

Commissioner Coletta moved and Commissioner Halas seconded to approve the agenda and minutes of March 20, 2008. The motion carried unanimously.

**AGENDA ITEM #4 (Cont'd)**  
**THE LOOP DRI – STAFF ASSESSMENT – Mr. Jason Utley**

**Transportation Element**

Chairman Messina requested that the applicant's representative address Mr. LeBeau's and Dr. Elkowitz's concerns.

Mr. Ted Brown, Attorney with Baker Hostetler in Orlando gave a background overview of the project and overall design of the project.

Ms. Holquist noted that the project was found to be insufficient in 2007 and asked Mr. Brown what was the reason for it being declared insufficient. Mr. Brown explained that transportation has been the issue. Ms. Holquist asked what the total proportionate fair share amount was. Mr. Brown replied \$11.7 million.

Commissioner Halas asked Mr. Brown if he felt that the northern residential portion of the project will evolve. Mr. Brown replied yes, the applicant would prefer a "for sale" product. Right now a "for sale" product means a condominium, and in the current density is very difficult to finance; however, we remain optimistic that when the time comes to move forward that the market will have returned and it will allow it to occur. If the market does not turn around then there is the potential for a rental product, but there will be residential product within the facility.

Mr. LeBeau stated to Mr. Brown that he was very careful in stating the six laning of North Jones Loop Road from Taylor Road to just east of the railroad tracks. Currently, there are four lane roads that merge into two lanes to go over the railroad tracks and that it concerns him that the intersection is not being improved. Mr. Brown explained that the county will be improving the intersection. Mr. LeBeau asked who is going to be paying for those improvements. Mr. Limbaugh explained that FDOT is currently working with Charlotte County where they have a design underway for Burnt Store Road in that area, including the intersection of US41. FDOT has recently placed new mast arms in the ultimate locations for the intersections when they get built out. There are Transportation Regional Incentive Program funds assisting Charlotte County in building that intersection out and it is going to happen before this project has broken ground.

Mr. LeBeau stated that going from Taylor Road to North Jones Loop Road south, which is a two lane road, are there any traffic counts and if so, are they at an acceptable level. Mr. Brown replied that he is sure that there are traffic counts for that segment but he is not sure if there is an acceptable level or not. He explained that it is the county's choice of what they want to do with the money. They can either use the money and make the improvements to roadways, or they can place the money into a "pool" and wait for another development to add to the pool until there is adequate resources to address particular road deficiencies, or alternatively they can elect to "pipeline" and get one large discrete development done that has good public visibility and good acceptance.

Councilmember Smith-Mooney stated that the City of Punta Gorda has put in place covenants on affordable housing within certain areas. The covenant is only in effect for a certain number of years from the time that the unit is first occupied. During that time, any resale has to be within a certain perimeter that is governed by the prevailing market rate, as opposed to the original amount invested and the original sales price, so that it changes at a fair amount but it doesn't jump up into the higher cost of housing. Mr. Brown explained that the approach that has been taken, with the concurrence of Charlotte County, is to sell units at a substantial discount to the Peace River Community Trust and they in turn will own and manage the units for their clientele.

**Commissioner Janes moved staff recommendation and Councilmember Smith-Mooney seconded to recommend Conditional Approval of The Loop DRI to be further conditioned on a finding of consistency with the local government comprehensive plan by the Charlotte County Board of County Commissioners. The motion carried with Mr. LeBeau and Dr. Elkowitz opposed.**

Note: Dr. Elkowitz has requested that the following be recorded in the minutes.

Dr. Elkowitz was opposed to approving The Loop DRI because he felt that the developer did not commit to the following:

- A crosswalk for pedestrians to use from the residential to the commercial;
- No traffic signals on a six lane boulevard;
- Affordable housing;
- Wastewater recycling; and
- Parks or open areas for residents.

#### **AGENDA ITEM #5(a)**

#### **Memorandum of Understanding Between the RPCs the Comprise the FRCA regarding the Provision of Technical Assistance - Mr. Ken Heatherington**

Chairman Messina announced that at the request of the Council's Legal Counsel, Ms. Donley, this item will be deferred until the Council's May meeting.

#### **AGENDA ITEM #5(b)**

#### **SWFRPC Annual Audit for FY 07 - Mr. Jeff Tuscan, CPA of Tuscan & Company, PA**

Mr. Tuscan reviewed the item as presented in the agenda packet and distributed handout.

Mr. Limbaugh referred to the bottom of page 10 and top of page 11, where it refers to how the MPO interacts with the Council. He noted that within the Auditor's report it noted that neither the MPO or the NEP are considered separate entities from the Council and he doesn't believe that is consistent with the Florida Statute on how the autonomy of the MPOs are supposed to be handled. Mr. Tuscan explained that both the NEP and MPO operate independently, but as for a government entity, they are not a separate entity at least through the end of the audit. Their activity gets incorporated through the Council.

Mr. Limbaugh stated the reason that he is bringing up the issue is being a state agency, FDOT is working with all of the MPOs to have independent staff services agreements with all of their host agencies, which state that they are independent and function independently. Mr. Tuscan explained that the difference is the accounting independence and the functional/legal independence. As far as an entity, the MPO does function independently, but in the formation of an accounting reporting entity, the activity is still reported as part of the Council, because the MPO is not an independent government themselves as far as a functioning accounting entity.

Mr. Tuscan asked that the Council approve the 2007 Audit Report so that it can be forwarded to Auditor General and other reporting entities.

**Mayor Humphrey moved and Mr. LeBeau seconded to approve the 2007 Audit Report. The motion carried unanimously.**

**AGENDA ITEM #5(c)  
SWFRPC Annual Budget - Ms. Janice Yell**

Chairman Messina gave an overview of the Executive Committee meeting which was held prior to the Council meeting to discuss the annual budget. She noted that the Executive Committee did recommend approval of the annual budget.

Ms. Yell reviewed the item as presented. She noted that there was a decrease in DCA's revenue to the Council.

**Mr. Karau moved and Councilmember Smith-Mooney seconded to approve the Council's Annual Budget FY 08/09 as presented. Motion carried unanimously.**

**AGENDA ITEM #6(b)  
Lower West Coast Watersheds Subcommittee Report - Mayor Mick Denham**

Mayor Denham gave a brief status report on the subcommittee's efforts.

Ms. Corbett gave a PowerPoint presentation on onsite sewage treatment and disposal systems as contained within the agenda packet.

Mayor Denham requested that the members review draft Resolution #2008-02 as presented in the agenda packet and submit comments if necessary. He indicated that he would like to have a final draft brought to the Council for consideration for adoption at the May meeting.

Mayor Feichthaler thanked the subcommittee for bringing the issue of septic tanks forward, especially since the City of Cape Coral has embarked on approximately 100 square miles (150,000 pre-platted residential lots) of conversion from septic tanks to central sewer. He explained that the Cape Coral City Council are facing two issues: First, some of the city council members believe that septic tanks are not a problem; and secondly, the money, the starting price for a single-family home in Cape Coral, between the impact fee and the assessment, is \$21,000 and that is not inclusive of all fees. He feels that there needs to be some kind of alternatives, because in some areas the conversions may not happen so that the costs will not affect the residents in those areas.

Mayor Denham explained that one alternative that the subcommittee is reviewing is compiling a management plan which protects the environment.

Mr. LeBeau stated he has spent a lot of time researching various studies on sewage treatment (septic, aerobic, central, etc.) and finds it offensive to the point where he can find a study whichever way he chooses. Also, he doesn't approve of Charlotte County using it as a growth management tool. He noted that according to one study, central sewers lose 10% of the effluent between the collection point and the plant, so what does a septic tank lose. According to the health department, the aerobic systems in Charlotte County are at an 80% failure rate. He stated that he feels that there needs to be an educational program for the public, because if you educate the public of what not to put into the system(s) then you will have less system failures and less usage of water.

Commissioner Cummings stated that the effluent does end up in the estuary. Also, state law states that septic tanks are sustainable at four units per acre; however, Charlotte County was taken to court on that point and lost. It appears that the state law states that it is okay at four units per acre, but when Charlotte County was not dealing with its growth management and they were looking at putting in 200,000 septic tanks the state said it wasn't okay and took the county to court.

**AGENDA ITEM #6(c)**  
**Legislative Subcommittee Report - Commissioner Jim Coletta**

Commissioner Coletta gave the Legislative Subcommittee report.

**AGENDA ITEM #6(d)**  
**Legislative Update - Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

**AGENDA ITEM #6(e)**  
**Other Emerging Regional Issues**

Mr. Heatherington reviewed the item as presented.

**AGENDA ITEM #7**  
**PUBLIC COMMENTS**

No public comments were made at this time.

**AGENDA ITEM #8**  
**DIRECTOR'S COMMENTS**

Mr. Heatherington had no comments at this time.

**AGENDA ITEM #9  
STATE AGENCIES COMMENTS/REPORTS**

**FDOT** - Mr. Limbaugh announced that FDOT is considering leasing Alligator Alley as a long-term 50-75 year lease. There is an industry forum being held in Orlando on April 24<sup>th</sup> to gauge financial interests. He explained that FDOT would receive a lump sum, cash up front payment of some level that would be able to be used on other facilities and there would be a concessionaire that would handle the Alley's maintenance up-keep and toll structure. This would be the first one within the State of Florida; other states have tried it with varying degrees of success.

Commissioner Halas explained that FDOT is basically taking the assets from Alligator Alley and turning it over to a private enterprise and basically instead of paying \$2.50 for the toll it will probably be raised to \$15.00 per vehicle.

Mr. Limbaugh explained that there will probably be an increase in the cost of the toll per vehicle because at its current price it is just generating barely enough to cover the resurfacing and maintenance up-keep expenses. It is not a profit generating facility. Commissioner Halas stated yes, it is because some of its revenue goes to the conservation groups. Mr. Limbaugh replied that FDOT has an obligation to pay a certain percentage of the Alley's revenue towards the Everglades Restoration Program. Commissioner Halas stated that it is not supposed to be a profit making facility.

Chairman Messina suggested to Commissioner Halas that he recommend that the Council take a position on the issue. Commissioner Halas agreed.

Commissioner Cummings stated that government entities are not supposed to be making a profit.

**SFWMD** - Mr. Flood announced that the SFWMD have reduced their water restrictions.

**SWFWMD** - Ms. Davies announced that the SWFWMD have not reduced their water restrictions.

**FDEP** - Mr. Iglehart had no comments at this time.

**AGENDA ITEM #10  
COUNCIL ATTORNEY'S COMMENTS**

Counsel Donley had no comments at this time.

**AGENDA ITEM #11  
COUNCILMEMBERS' COMMENTS**

Commissioner Beck thanked the Council for adopting SWFRPC Resolution #2008-01 and that he brought it to Tallahassee along with a resolution from FRHEDI.

Mr. LeBeau thanked Mayor Denham for his efforts and the Lower West Coast Watersheds Subcommittee.

Commissioner Coletta suggested having Mr. Heatherington conduct a feasibility study and invite a representative from both the Seminole and Miccosukee Tribes to become members of the Council.

Mr. Heatherington thanked Councilmember Smith-Mooney for her donation to Howard T. Odum Wetlands Center in honor of David Burr. He then presented the plaque honoring Dave Burr which will be placed on the building as a memorial and announced a dedication will be held at the May 15<sup>th</sup> meeting.

**AGENDA ITEM #12  
ADJOURN**

The meeting adjourned at 12:00 pm.

---

Commissioner Paul Beck, Secretary

The meeting was duly advertised in the April 4, 2008 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 34, Number 14.