

**MINUTES OF THE  
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL  
SEPTEMBER 16, 2010**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **September 16, 2010** at the Southwest Florida Regional Planning Council - 1<sup>st</sup> Floor Conference Room at 1926 Victoria Avenue in Fort Myers, Florida. **Chair Mick Denham** called the meeting to order at **9:01 a.m.** **Commissioner Carolyn Mason** led an invocation and the Pledge of Allegiance. Senior Administrative Staff Nichole Gwinnett conducted the roll call.

**MEMBERS PRESENT**

**Charlotte County:** Councilman Don McCormick, Ms. Andrea Messina, Commissioner Robert Skidmore

**Collier County:** Councilman Charles Kiester, Commissioner Frank Halas, Commissioner Jim Coletta, Mr. Bob Mulhere, Councilwoman Teresa Heitmann

**Glades County:** Commissioner Kenneth "Butch" Jones

**Hendry County:** Commissioner Karson Turner, Mr. Melvin Karau

**Lee County:** Councilman Mick Denham, Councilman John Spear, Councilman Forrest Banks, Mayor John Sullivan, Ms. Laura Holquist

**Sarasota County:** Commissioner Carolyn Mason, Councilman Ernie Zavodnyik, Commissioner Tom Jones, Mr. George Mazzarantani

**Ex-Officio Members:** Ms. Terri Behling for Ms. Dianne Davies - SWFWMD, Mr. Johnny Limbaugh - FDOT, Mr. Phil Flood - SFWMD

**MEMBERS ABSENT**

**Charlotte County:** Mr. Alan LeBeau, Commissioner Tricia Duffy

**Collier County:** None

**Glades County:** Dr. Edward Elkowitz, Commissioner Paul Beck

**Hendry County:** Commissioner Tristan Chapman, Mayor Paul Puletti, Mayor Mali Chamness

**Lee County:** Commissioner Ray Judah, Commissioner Tammy Hall, Mr. Paul Pass, Councilman Tom Babcock

**Sarasota County:** Commissioner Jon Thaxton, Mr. David Farley

**Ex-Officio Membership:**  
County

Mr. Jon Iglehart - FDEP, Ms. Tammie Nemecek - EDC of Collier

## **INTRODUCTIONS**

Lee County Commissioner Frank Mann stated that he would be attending the meeting for both Commissioners Judah and Hall.

Chair Denham introduced the following guests: Ms. Diana McGee, US Senator Nelson's Office; and Mr. Michael Pedersen, US Senator George LeMieux's Office; and Ms. Leah Valenti, Congressman Tom Rooney's Office.

### **AGENDA ITEM #1 AGENDA**

The agenda was approved as presented.

### **AGENDA ITEM #2 MINUTES OF JUNE 17, 2010**

Commissioner Mason moved and Mr. Mazzarantani seconded to approve the minutes of June 17, 2010 as presented. The motion carried unanimously.

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

Mr. Mulhere noted that he had a conflict of interest with Consent Agenda Item #3(m) - Collier County Comprehensive Plan Amendments (DCA 10RAEC-1) and will abstain from voting.

Commissioner Turner moved and Commissioner Tom Jones seconded to approve the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statements for June 30<sup>th</sup>, July 31<sup>st</sup> and August 31, 2010 & Grant Activity Status Sheet; Agenda Item #3(c) End of Year Budget Amendments; Agenda Item #3(d) 3<sup>rd</sup> Quarter Executive Summary; Agenda Item #3(e) SWFRPC Fixed Assets Removal; Agenda Item #3(f) Del Prado North Commerce Park DRI - Abandonment; Agenda Item #3(g) Indian Oaks Trade Centre DRI - Abandonment; Agenda Item #3(h) The Fountains DRI - Sufficiency Response Extension Request; Agenda Item #3(i) Timberland & Timburon DRI - NOPC; Agenda Item #3(j) Lee County Comprehensive Plan Amendments (DCA 10-2); Agenda Item #3(k) Lee County Comprehensive Plan Amendment (DCA 10D-1); Agenda Item #3(l) Lee County Comprehensive Plan Amendment (DCA 10D-2); Agenda Item #3(m) Collier County Comprehensive Plan Amendments (DCA 10RAEC-1); Agenda Item #3(n) Charlotte County Comprehensive Plan Amendments (DCA 10-2); Agenda Item #3(o) Sarasota County Comprehensive Plan Amendments (DCA 10-2); Agenda Item #3(p) City of Naples Comprehensive Plan Amendment (DCA 10-1); Agenda Item #3(q) CEDS Annual Update; and Agenda Item #3(r) Glades & Hendry Joint Local Coordinating Board for the Transportation

**Disadvantaged Membership Appointments and Certification. The motion carried with Mr. Mulhere abstaining on Agenda Item #3(m) Collier County Comprehensive Plan Amendments (DCA 10RAEC-1).**

Chair Denham explained that due to the length of the agenda and the concern of losing a quorum, it has been suggested to move Agenda Item #6(c) up to become the next item of discussion.

**AGENDA ITEM #6(c)  
SWFRPC/DCA FY 2010/11 Annual Contract – Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

**Mr. Mulhere moved and Mr. Karau seconded to approve the SWFRPC/DCA FY 2010/11 Annual Contract as presented. The motion passed unanimously.**

**AGENDA ITEM #4(a)  
Florida Gulf Coast Technology & Research Park DRI – Staff Assessment**

Mr. Trescott of staff gave a PowerPoint presentation on the item as presented.

Councilman Kiester referred to staff's low impact recommendation under stormwater and asked what does staff mean by "low impact." Mr. Trescott referred the question to Mr. James Beever of staff. Mr. Beever explained that it relates to the resolutions that the Council had passed through the Lower West Coast Watersheds Implementation Committee with regards to improved stormwater treatment. Where stormwater is conserved and kept onsite rather than being discharged at the levels which are normally permitted. The applicant has indicated that they do not wish to commit to the higher standards of stormwater treatment. They would prefer to stay with the current standards under what the SFWMD currently utilizes.

Councilman Kiester asked if it is possible that a local government would include the higher standards in their local government order or is it a situation where the SFWMD has already approved the plan and the Council and local government can overrule. Mr. Beever stated that he would have to let SFWMD and Lee County discuss their relationship on this type of activity, but his experience has been that if the local government has a standard, as what has been adopted in Sarasota County, the SFWMD utilizes that standard in their project review. It is his understanding that once an applicant obtains a permit from a water management district you are valid to develop your landscape in that surface water management permit for the period that the permit is valid, but there is always opportunity for renegotiations if all parties are agreeable.

Chair Denham stated that Lee County did support the Council's recommendation on stormwater and Mr. Flood was involved in the preparation of the stormwater resolution by the Lower West Coast Watersheds Implementation Committee.

Mr. Flood explained that the applicant has met the SFWMD's requirements for the stormwater permit, so they are entitled to receive that permit. However, they do need to receive other permits from other entities before they can begin developing the land.

Chair Denham asked if the applicant supports the Council's recommendations. Mr. Wayne Arnold from Grady Minor explained that he is representing the applicant, Benderson Development, and has been continuing a dialog with Lee County staff and there is some language under the Tradeport land use designation which refers to the higher water quality standards. We have been working with staff and as we continue to develop the development order, we are willing to discuss certain aspects of that, but because there is already an existing SFWMD permit we don't feel that we can comply with all aspects of the recommendations from Council staff, because there are already enhanced water quality standards built into the existing permit and there are opportunities that can be utilized as we move forward, i.e. irrigation, grey water use, etc.

Mr. Alvin "Chip" Block, Principal Planner for Lee County Zoning Division explained that he has been making notes of what the Council has been asking for in regards to the low impact for stormwater management and he will return to his office and discuss the issues with Lee County staff, in order to be able to work with Council staff and get a better understanding of what low impact means and see if we can initiate some of those elements. It is our understanding that the applicant would have to submit for a modification to the existing SFWMD permit because of the way the current project is designed. It going to be necessary since the design is different from what was approved under the original SFWMD permit.

Councilwoman Heitmann asked Mr. Flood if it is often that a water management district permit is issued on a DRI before it is presented to the Council. Mr. Flood explained that it is not that uncommon because the applicant can submit their application to a water management district whenever they want to start the time clock.

Councilwoman Heitmann asked Mr. Flood how can these two standards of water quality from the water management district(s) and the Council's Lower West Coast Watershed Implementation Committee be made into one so we don't continue to run into this issue. Mr. Flood explained that SFWMD's staff is aware of the Council's Lower West Coast Watershed Implementation Committee recommendations, but they can't suggest those recommendations as a requirement of the SFWMD's rules. However, there is a Statewide Stormwater Rule which FDEP is currently in the process of developing which would require new developments to have increased water quality and water storage requirements.

Mr. Beever stated that his recommendation would be that since there is an existing SFWMD permit that we recommend the use of the low impact development water quality stormwater standards and we transmit this recommendation to Lee County.

Commissioner Halas asked if there have been any energy conservation recommendations made for the project. Mr. Trescott explained that there are standard energy conservation measures which the applicant has committed to and also Florida Power and Light has been part of the review process for the project.

Ms. Holquist asked how the additional condition is going to impact the development. Mr. Arnold replied that he really didn't know at this time. They are currently working with Lee County staff on several issues, such as the Tradeport land use designation which has higher water quality standards and which we have to adhere to. We are working with staff to demonstrate that with the

additional preserve areas that we have above what the minimums are under their codes and that we are incorporating many enhanced water quality aspects for this project.

**Councilman Kiester moved and Commissioner Mason seconded to approve staff's recommended action: The Southwest Florida Regional Planning Council recommends Conditional Approval of the Florida Gulf Coast Technology and Research Park DRI to be further conditioned on a finding of consistency with the Local Government Comprehensive Plan by the Lee County Board of County Commissioners. Also, include a recommendation for the use of the low impact development water quality stormwater standards and transmit this recommendation to Lee County. The motion carried unanimously.**

#### **AGENDA ITEM #4(b)**

##### **Jetport/Interstate Commerce Park DRI Substantial Deviation – Staff Assessment**

Mr. Trescott of staff gave a PowerPoint presentation on the item as presented.

**Councilman McCormick moved and Commissioner Mason seconded to approve staff's recommended action: The Southwest Florida Regional Planning Council recommends Conditional Approval of the Jetport Interstate Commerce Park Substantial Deviation DRI to be further conditioned on a finding of consistency with the Local Government Comprehensive Plan by the Lee County Board of County Commissioners. The motion carried unanimously.**

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

##### **HUD Sustainable Communities Planning Grant Proposal – Ms. Liz Donley**

Ms. Donley gave a verbal briefing on the HUD Sustainable Communities Planning Grant proposal which Council's staff submitted on August 23<sup>rd</sup>.

Mr. Heatherington stated that he is very proud of his grant writing staff and that he recently spoke with a HUD representative and she had indicated that they are currently reviewing approximately 200 grant applications.

Mr. Mulhere stated that he also wanted to complement staff on their efforts with this grant.

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

##### **PACE Resolution – Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

**Commissioner Coletta moved and Commissioner Halas seconded to approve SWFRPC Resolution #2010-05 as presented and also request that each local jurisdiction pass a similar resolution. The motion carried unanimously.**

**AGENDA ITEM #5(c)**  
**County Administrators, City Managers, and Planning Directors Meeting Report – Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

**AGENDA ITEM #5(d)**  
**Legislative Update – Mr. Dave Hutchinson**

Mr. Heatherington suggested re-instating the Council's Legislative Committee to update the Council's Legislative Position Statement for 2011. He noted that Commissioner Coletta was the Co-Chair of the Committee. Commissioner Coletta noted that Commissioner Turner was also a Co-Chair of the Committee.

Commissioner Turner suggested that staff prepare a list of bullet points and issues that the members need to discuss with their legislative delegation, both on the State and Federal level. Reason being that it is an election cycle and we are going to campaign functions where we are getting personal time which we don't usually get.

Mr. Heatherington stated that he doesn't believe that there is going to be too many changes needed to the Council's Legislative Position Statement from last year.

Mr. Mulhere stated that any opportunity that we can have to be with the legislative delegation and be very well informed on certain issues would be very beneficial and appreciated, but the benefit to us is that they will look to us as a source of information.

The following members volunteered for the Legislative Committee:

- Commissioner Jim Coletta, Collier County BOCC (Co-Chair)
- Commissioner Karson Turner, Hendry County BOCC (Co-Chair)
- Councilman Mick Denham, City of Sanibel
- Councilwoman Teresa Heitmann, City of Naples
- Ms. Laura Holquist, Lee County Governor Appointee

Mr. Heatherington announced that SB360 has been found to be unconstitutional due to the unfunded mandates.

Councilman Zavodnyik stated that a couple of days after SB360 was ruled to be unconstitutional; Senator Bennett indicated that he wished that cities and counties that had filed the lawsuit had spoken to him beforehand. He then said that it had occurred to him that there was a prior question before that "did Senator Bennett speak with the cities and counties throughout the State?" It is his recollection that Senator Bennett didn't visit the City of Venice to receive any input.

**AGENDA ITEM #6(a)**  
**EPA Climate Showcase Grant – Letter of Support for the City of Ft. Myers – Mr. Dave Hutchinson**

Mr. Hutchinson reviewed the item as distributed.

**AGENDA ITEM #6(b)**  
**Lee Metropolitan Planning Organization (MPO) Staff Services Agreement – Ms. Liz Donley**

Ms. Donley gave a verbal update on the status of the Lee County MPO Staff Services Agreement.

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

Commissioner Mann gave a history overview of Florida Gulf Coast University (FGCU) and how the Estero Bay Agency for Bay Management (Estero Bay ABM) was formed through a Settlement Agreement. He explained that the Estero Bay ABM is housed within the Council's offices and was originally funded through DCA; however, due to budget cuts the Estero Bay ABM has become unfunded. There are approximately 29 designated appointees and it is an advisory committee to oversee the overall health of Estero Bay, based on the impacts of the wetlands, historic water flows, etc.

Commissioner Mann explained that the signatory agencies (SFWMD, FGCU, and Lee County) of the Settlement Agreement have been asked to participate in the funding, along with the Council on an in-kind basis. He explained that the estimated funding needed is approximately \$10,000. He then suggested to the Council to send a letter to SFWMD, FGCU and Lee County requesting that they also participate at a \$2,500 level annually and also have the Council participate on an in-kind basis, which in essence they are currently doing but carrying the full load.

Mr. Heatherington stated that he will have staff compile the letter and he has had this discussion with FGCU in the past and he applauds the Council for its current action because he feels that it will help in the effort.

**Councilman Banks moved and Commissioner Mason seconded to have letters sent to SFWMD, FGCU and Lee County requesting that they dedicate a \$2,500 level annually for funding of the Estero Bay ABM and also have the Council participate on an in-kind basis. The motion carried unanimously.**

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

Mr. Heatherington announced that Mr. Mazzarantani was elected as FRCA's 2<sup>nd</sup> Chair of the Policy Board at the recent Policy Committee Meeting.

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

Mr. Flood announced that the SFWMD will be closing on 26,800 acres of US Sugar land next month with the option to purchase the remaining 153,000 acres within the ten year option. The 26,800 acres consists of two parcels, one in Hendry County and the other in Palm Beach County.

Mr. Flood announced that Hendry County was recognized by the Florida Planning and Zoning Association (FPZA) for their work on developing the Rural Lands Agricultural Study.

Mr. Flood announced that SFWMD's Governing Board passed guidance to staff on adaptive protocols on lake releases and how to make recommendations to the USCOE.

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

Ms. Donley stated that she had no comments at this time.

**AGENDA ITEM #11**  
**COUNCILMEMBERS' COMMENTS**

Councilman Banks stated that he had to leave early due to the fact that earlier in the month the City of Fort Myers Police Department lost a canine officer, Rosco, in a shooting. At 11:00 a.m. today the City of Fort Myers Police Department will be celebrating his life with full police honors and he would like to thank all of the canine units throughout the State for their service and encourages anyone who gets the chance to go see one of these canine officers at work.

Commissioner Mason stated that at yesterday's Sarasota County BOCC meeting Commissioner Shannon Staub announced her plans to retire at the end of this year.

Chair Denham asked if there will be a special election. Commissioner Mason replied that there will be a special election held in January. Chair Denham asked how long has Commissioner Staub served. Commissioner Mason replied 14 years.

Commissioner Butch Jones announced that Councilman Michael Brantley of the City of Moore Haven passed away from cancer in August and that staff may want to contact the City of Moore Haven have the City Council appoint a replacement.

Ms. Holquist gave an example on how SB360 had helped a project in Ormond Beach which went through the entire process.

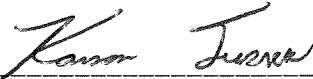
Ms. Messina explained that Amendment 8 is going to be on the ballot in November and it is the amendment which asks the voters to approve flexibility with the class size amendment implementation. All of the local school districts are going to be supporting Amendment 8 and she hopes to count on everyone else's support as well.



Councilman McCormick announced that he will be retiring on November 1<sup>st</sup> since he had lost the primary. He then introduced Ms. Rachel Kesling who will be replacing him on the city council.

**AGENDA ITEM #12**  
**ADJOURN**

The meeting adjourned at 10:22 a.m.

A handwritten signature in cursive script, appearing to read "Karson Turner", is written above a horizontal line.

Commissioner Karson Turner, Secretary

The meeting was duly advertised in the September 3, 2010 issue of the FLORIDA ADMINISTRATIVE WEEKLY, Volume 36, Number 35.

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Murphy, Robert James</i>		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Southwest Florida Regional Planning Council</i>	
MAILING ADDRESS <i>PO Box 1367</i>		THE BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY <i>Murphy Island, FL</i>		<input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY <i>W Regional Agency</i>	
COUNTY <i>Collier</i>		NAME OF POLITICAL SUBDIVISION: <i>STATE OF FLORIDA</i>	
DATE ON WHICH VOTE OCCURRED <i>9/16/2010</i>		MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE	

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies equally to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes. The requirements of this law are mandatory; although the use of this particular form is not required by law, you are encouraged to use it in making the disclosure required by law.

Your responsibilities under the law when faced with a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing the reverse side and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

### ELECTED OFFICERS:

A person holding elective county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

In either case, you should disclose the conflict:

**PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

**WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

### APPOINTED OFFICERS:

A person holding appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which inures to his special private gain. Each local officer also is prohibited from knowingly voting on a measure which inures to the special gain of a principal (other than a government agency) by whom he is retained.

A person holding an appointive local office otherwise may participate in a matter in which he has a conflict of interest, but must disclose the nature of the conflict before making any attempt to influence the decision by oral or written communication, whether made by the officer or at his direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You should complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form should be provided immediately to the other members of the agency.
- The form should be read publicly at the meeting prior to consideration of the matter in which you have a conflict of interest.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You should disclose orally the nature of your conflict in the measure before participating.
- You should complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Robert J. Mulhose, hereby disclose that on September 16 2010 19:

(a) A measure came or will come before my agency which (check one)

☐ inured to my special private gain; or

☐ inured to the special gain of \_\_\_\_\_, by whom I am retained.

(b) The measure before my agency and the nature of my interest in the measure is as follows:

I was the primary consultant for the Inland Area Master Plan, Longrange plan Amendment, which the RPL was voting on (to forward its recommendations to the State Dept of Community Affairs). As the primary consultant, it was necessary for me to abstain from voting on the Council's action.

9/16/2010  
Date Filed

  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317 (1985), A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$5,000.