

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
NOVEMBER 18, 2010**

The regular meeting of the Southwest Florida Regional Planning Council was held on November 18, 2010 at the Southwest Florida Regional Planning Council - 1st 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 Butch Jones led an invocation and the Pledge of Allegiance. Senior Administrative Staff Nichole Gwinnett conducted the roll call.

MEMBERS PRESENT

Charlotte County: Councilwoman Rachel Keesling, Commissioner Robert Skidmore, Commissioner Tricia Duffy, Mr. Michael Grant

Collier County: Mr. Bob Mulhere, Ms. Pat Carroll

Glades County: Commissioner Kenneth "Butch" Jones, Ms. Shannon Hall

Hendry County: Commissioner Tristan Chapman, Mayor Paul Puletti, Mr. Melvin Karau

Lee County: Councilman Mick Denham, Mayor John Sullivan, Commissioner Ray Judah, Ms. Laura Holquist, Councilman Tom Babcock

Sarasota County: Commissioner Carolyn Mason, Commissioner Jim Blucher for Commissioner Tom Jones, Mr. Felipe Colón

Ex-Officio Members: Mr. Jon Iglehart - FDEP, Ms. Dianne Davies - SWFWMD, Mr. Phil Flood - SFWMD, Ms. Tammie Nemecek - EDC of Collier County

MEMBERS ABSENT

Charlotte County: Ms. Andrea Messina

Collier County: Councilman Charles Kiester, Commissioner Jim Coletta, Councilwoman Teresa Heitmann

Glades County: Commissioner Paul Beck, Councilwoman Pat Lucas

Hendry County: Commissioner Karson Turner, Mayor Mali Chamness

Lee County: Councilman Forrest Banks, Councilman John Spear, Mr. Paul Pass, Commissioner Tammy Hall

Sarasota County: Commissioner Jon Thaxton, Mr. George Mazzarantani

Ex-Officio Membership: Mr. Johnny Limbaugh - FDOT

INTRODUCTION OF NEW MEMBERS

Chair Denham introduced the following new members:

- Mr. Michael Grant, Charlotte County Governor Appointee
- Ms. Pat Carroll, Collier County Governor Appointee
- Councilwoman Pat Lucas, City of Moore Haven
- Ms. Shannon Hall, Glades County Governor Appointee
- Mr. Felipe Colón, Sarasota County Governor Appointee
- Councilwoman Rachel Keesling, City of Punta Gorda

AGENDA ITEM #1 AGENDA

Chair Denham stated that the agenda was approved as presented.

AGENDA ITEM #2 MINUTES OF OCTOBER 21, 2010

Commissioner Judah moved and Commissioner Duffy seconded to approve the minutes of October 21, 2010 as presented. The motion carried unanimously.

AGENDA ITEM #3 CONSENT AGENDA

Commissioner Skidmore moved and Commissioner Judah seconded to approve the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for October 31, 2010 & Grant Activity Status Sheet; Agenda Item #3(c) Hazardous Materials Emergency Preparedness (HMEP) Planning & Training Contract; and Agenda Item #3(d) Review of Revised Glades-Hendry Joint Local Coordinating Board Bylaws. The motion carried unanimously.

AGENDA ITEM #4(d) Budget Committee Report - Ms. Laura Holquist

Ms. Holquist reviewed the item as presented.

Mr. Mulhere moved and Ms. Carroll seconded to approve the Budget Committee's recommendation. To proceed with the transfer of the Council's promissory note from Bank of America to Iberia Bank including the checking account.

Chair Denham explained that during the last Budget Committee meeting there was discussion to consider community banks and staff did contact local community banks and they were not able to either meet Iberia's current proposal or the public funds requirements.

Ms. Holquist also noted that Iberia Bank has also been able to lower the interest rate on the loan from the original 5% to 4.5% which will save approximately \$5-6,000 per year.

Chair Denham noted that Iberia Bank has also been able to reduce the legal fees in the closing costs.

The motion carried unanimously.

AGENDA ITEM #4(c)

Nominating Committee Report – Commissioner Jim Coletta

Commissioner Judah explained that in the absence of Commissioner Coletta he will be presenting the item. He then stated that the Nominations Committee had met on Monday, November 15th and recommended the following slate of nominees for 2011:

- ✓ Chairman: Councilman Charles "Chuck" Kiester, City of Marco Island
- ✓ Vice Chairman: Commissioner Karson Turner, Hendry County BOCC
- ✓ Secretary: Councilwoman Teresa Heitmann, City of Naples
- ✓ Treasurer: Commissioner Carolyn Mason, Sarasota County BOCC

Commissioner Judah moved and Commissioner Skidmore seconded to approve the Nominations Committee recommendation. The motion carried unanimously.

Counsel Donley explained that the new officers will take their seats at the end of the December meeting.

AGENDA ITEM #4(a)

Harborview Substantial Deviation DRI – Charlotte County Development Order Review – Mr. Dan Trescott

Mr. Trescott reviewed the item as presented.

Chair Denham asked if the recommendations that are being presented today are the same recommendations that were presented on May 20th. Mr. Trescott replied no, on May 20th the conditions that are listed within Attachment I, which is the Staff Assessment Report, staff made recommendations that Charlotte County incorporate those conditions into the development order. Now we are in the process to review the development order to discuss what is missing and how to resolve those issues.

Chair Denham asked Mr. Trescott what are staff recommendations. Mr. Trescott explained that staff is recommending that DCA appeal the development order in order to incorporate the conditions listed in Attachment III which are missing from the Council's Staff Assessment Report.

The second recommendation is to have Charlotte County rescind the development order to try to work out the issues.

Commissioner Skidmore moved and Commissioner Duffy seconded to oppose staff's recommendations.

Commissioner Skidmore stated that this project is within the geographical borders of Charlotte County and was recently approved by the Charlotte County BOCC. He then said that basically what this is boiling down to is a disagreement on what the SWFRPC wants and what local control wants. With all of the talks about Home Rule Charter and the ability to be able to do things at home, we don't want Tallahassee telling us what to do and Charlotte County doesn't want to have the SWFRPC telling them that they can't have a marina. He stated that he feels that this is a good project for the community, creating new jobs, and the sensitivity of the environment has been taken under advisement several times by the applicant. He then urged the members of the Council in honor of local decision making to deny staff's recommendations.

Chair Denham reminded Commissioner Skidmore that the SWFRPC is an advisory board and the Council is very familiar with the applicant and he appreciates Council's staff and their efforts. Commissioner Skidmore stated that since the SWFRPC is an advisory board that Charlotte County does not have to accept the SWFRPC's advise.

Commissioner Judah stated that he respects and appreciates local government authority; but the whole reason for the RPC is to ensure that the decision made by local authorities don't impede, impair or underline public resources within the region. Which is what is happening through the current proposal, particularly with the dredging. There was a lengthy discussion when this project was first brought before the Council, we are trying to provide for consistency and continuity in that we as a Council support staff's recommendations with regards to the conditions that were listed within the staff assessment report and where disregarded. In order to remain consistent and current in our beliefs in protecting our public resources he would not support the current motion, but recommend that the Council support staff's recommendation to have DCA appeal the current development order.

Mr. Mulhere asked Mr. Trescott what he perceives DCA's action to be assuming that there was a recommended action for DCA to appeal the development order. Mr. Trescott explained that staff has been working with DCA over the last couple of weeks and from the discussions his feeling is that they will appeal the development order.

Commissioner Duffy clarified that from the discussions at the May 20th meeting the issue was about the marina and it came down to that the development was approved without the marina. She stated that she feels that many of the recommendations that the Council had recommended were implemented into the development order prior to the vote by the Charlotte County BOCC. Water quality is a regional issue and the developer has agreed to a buffer, a bio swale and a lift. She believes that the applicant has tried to accommodate the recommendations of the RPC, as well as those on the Charlotte County BOCC. She noted that Charlotte County staff doesn't feel that it is inconsistent with the county's comprehensive plan and that DCA won't appeal the development order.

Mr. Jeffrey Jerry, Director of Charlotte County's Growth Management Department stated that in Charlotte County's opinion our staff has addressed every issue that was put forth by Council staff. Many of the concerns with the marina and stormwater issues are handled through other permitting agencies. Charlotte County doesn't have the staff to deal with environmental permitting; we are allowed to participate in the review which is included in the development order. Charlotte County will work hand-in-hand with the applicant, but relies upon the other permitting agencies, such as FDEP and the SWFWMD, to monitor water quality. Charlotte County has placed as many stop gaps as possible in the development order in order to make sure that the project does maintain the highest quality of water quality within the marina and south. Any failure to maintain that standard that has been set forth in the development order will result in a violation of the development order and they will not be allowed to submit for any building permits. He then asked for clarification on what are the issues that have not been addressed specifically.

Chair Denham asked Mr. Trescott to go through the conditions that are of major importance that have not been addressed within the county's development order.

Mr. Trescott explained that staff did not recommend denial of the marina. He clarified that staff recommended denial of the original location of the marina and then gave the alternate location. The law states that if staff recommends denial of something that staff must state what is approvable. Staff recommended a dry storage marina contingent upon the permitting process over in the eastern portion of the project along an existing canal. The current proposal will be cutting across a portion of freshwater wetland area and then come down and cut through 1.7 acres of wetlands, although the staff assessment states that approximately 4 acres of saltwater wetlands are going to be impacted. The big issue of concern for Council staff is the proposed lift, because staff doesn't believe that the lift will stay in place forever. It has been seen in Cape Coral where all it takes is various individuals/agencies to decide that they don't want it anymore and then it is eventually removed. He explained that with the proposed marina it will impact the habitats of the manatee, small tooth sawfish; which ground zero for the highest number of sightings for the small tooth sawfish is just south of the project on the Peace River.

Mr. Trescott noted that there were approximately four pages of public transportation conditions that were not addressed within the development order.

Commissioner Skidmore stated that Charlotte County doesn't have public transit. Mr. Trescott explained that public transportation facilities are roadways and infrastructure.

Commissioner Duffy stated that she doesn't understand the reasoning for the relocation of the marina and having it become a dry storage marina instead of a wet slip marina. She then asked if staff has ever made those recommendations to the City of Cape Coral for a proposed marina. Mr. Trescott replied if it needed to be done yes; however, the City of Cape Coral is a vested DRI that was approved before this process was put in place in 1972. He then stated that in the history of the SWFRPC, the Council has never approved any dredging for a marina through pristine saltwater wetlands.

Commissioner Duffy noted that the applicant has agreed to place the land where the lift is located and present it to a non-profit organization that will be forever in control, so the lift will never be removed. Their sole purpose of that non-profit organization will be for the improvement of water

quality. Staff's recommendation was for the land to be given to the State of Florida, but Charlotte County felt that it should be given to a local non-profit organization that will be in control. She also noted that Charlotte County is in the process of developing a new Manatee Plan and a recent survey was completed on the small tooth sawfish and found three fish. Also, the small tooth sawfish is newly endangered species, but there are no guidelines or rules in terms of how to mitigate for the small tooth sawfish.

Commissioner Duffy explained that the area of discussion if filled with Brazilian Pepper trees it is not the type of habitat that the small tooth sawfish like to live in. We are only talking about 1.7 acres of land and it is not a canal, but a ditch that is being proposed for widening. The wetlands are going to be in preservation, approximately 150 acres of wetlands.

Mayor Sullivan noted that the City of Cape Coral did not want the lift removed, but the science told us that the pressure from the lift was causing a lot of damage also people were destroying mangroves by taking their boats and going around the lift.

Commissioner Blucher asked staff if they felt confident that the lift was going to remain in-place for eternity then would they change their minds. Mr. Trescott explained that he feels that people change their minds all the time and if they want to remove the lift then it will be removed. Commissioner Blucher also questioned the dredging portion.

Mr. Beever of staff explained that the dredging portion consists of the drainage ditch which is essential a drainage feature. He then explained that only a portion of the site is covered in Brazilian Pepper, most of the site covered is Black Rush Marsh and mangroves. He explained that where that the proposed location for the marina is a borrow pit from the I-75 on-ramps to the Peace River Bridge, so it wasn't designed for a marina. The concept for a lift for waterways or lock systems was developed in the 1970s and is an old design. All of the lifts that have been installed within Southwest Florida have been since removed and in Charlotte County they went through a whole process to remove this system on the Manchester waterway, which is to the west of the project.

Attorney Jerry Waxler representing Benderson Development presented a document which she indicated included 99.5% of Council staff's conditions. Chair Denham asked if Council staff and DCA had a chance to review the document. Ms. Waxler replied no because the document was completed yesterday, but the document refers to the provisions of the adopted development order. She explained that there have been two main issues with the project and which are the consistency with the Charlotte County Comprehensive Plan and the location of the marina along with water quality and the impacts to protected species.

Attorney Waxler explained that consistency was addressed in the application materials that were provided. A 30 page analysis was provided to the Charlotte County BOCC when they adopted the development order. Charlotte County staff also provided Charlotte County BOCC a report on how it was consistent with their comprehensive plan.

Attorney Waxler explained the reasoning behind the removal of the lock system throughout Charlotte County. She noted that they were built back in the 1960s and the houses along those canals were on septic systems which makes a big difference. The Harborview project will be on

central sewer. Also, the other weirs and locks systems were public facilities and the lift within the project will be privately owned and it has been stated within the development order that the lift has to remain in perpetuity. She also noted that in addition to that condition, the weir, uplands and lift system into a conservation easement which will be granted to an independent, non-for-profit, third party entity whose purpose is water quality. She then explained that there will be a 100' buffer around the entire wetland system with bioswales.

Commissioner Mason stated that this project is of a regional nature and everyone needs to work the issues out together. She also stated that she respects local government's authority.

Commissioner Judah asked for Mr. Beever to give clarification on some issues. Mr. Beever referred to FDEP's letter dated November 8th, which was included in the packet. He then explained that there was concern about the possible upset of the hydrology of the tidal creek.

Commissioner Duffy stated that Charlotte County has been working on their Habitat Conservation Plan for the past five years.

Commissioner Judah expressed his concerns for the potential environmental impacts.

The motion passed with an 11 to 7 vote.

AGENDA ITEM #4(b)

Lower West Coast Watersheds Implementation Committee Report – Mr. David Crawford & Mr. James Beever

Chair Denham reviewed the first letter of consideration which was addressed to Dr. Mike Thomas at FDEP regarding the 2010 FDEP Model Ordinance for Florida-Friendly use of Fertilizer on Urban Landscapes.

Commissioner Judah moved and Commissioner Mason seconded to approve the letter to FDEP regarding the 2010 FDEP Model Ordinance for Florida-Friendly use of Fertilizer on Urban Landscapes. The motion carried unanimously.

Chair Denham reviewed the second letter of consideration which was addressed to the RPC Executive Directors and local governments regarding the Benefits of Local Government Fertilizer Ordinances.

Commissioner Mason moved and Commissioner Blucher seconded to approve the letter to the RPC Executive Directors and local governments regarding the Benefits of Local Government Fertilizer Ordinances. The motion carried unanimously.

Ms. Whitney Grey of staff announced the staff had completed a vulnerability assessment for climate change and resiliency plan that was under contract with Lee County's Sustainability Office and she was notified yesterday that Lee County was awarded one of eight technical assistance grants from ICLEI to prepare climate change adaptation.

AGENDA ITEM #5(b)
Sustainability through Growing Biofuel Crops Presentation – Mr. Bill Vasden, President of USCJO, Inc.

Mr. Vasden gave a PowerPoint presentation on the Sustainability through Growing Biofuel Crops.

Chair Denham asked how the biofuel crops will benefit Hendry County. Mr. Vasden explained that a biofuel plant will be built in Hendry County which will produce jobs.

Mr. Mulhere asked if the money from USDA is designed to flow through the land owners or local governments. Mr. Vasden explained that the money is going to flow through the farmers and facilities.

Mayor Sullivan asked if there is a big investment for the farmers to rotate crops. Mr. Vasden replied that it is an estimated \$400 per acre annually for a cover crop.

Ms. Carroll asked if biofuel has a shelf life. They are treated just like a petroleum based product.

AGENDA ITEM #5(a)
Hendry County's Economic Strategy and Land Use Plan – Commissioner Tristan Chapman

Commissioner Chapman gave a PowerPoint presentation on Hendry County. He then introduced Mr. Roger Harrison, President and CEO of Hendry County Economic Development.

Mr. Harrison gave a PowerPoint presentation on what has been done to improve Hendry County's economy. He explained that there are currently nine prospects ongoing in Hendry County.

Mr. Heatherington explained that due to the time constraints that he would like to invite the representatives from Hendry County back at a later date to continue their presentations when there is more adequate time.

Commissioner Chapman introduced Dr. Fritz Roka of IFAS and asked Dr. Roka to reply to Chair Denham's questions of how much food and seafood is imported into the United States.

Dr. Roka explained that from 1980 to 2000 per capita food consumption it was approximately 200 lbs per person, per year. What has been imported overall went from 8% to 11% over that period. He then noted that approximately 66% of the seafood is imported.

Chair Denham stated that it is very disturbing to him to know that the United States imports 66% of its seafood knowing how other countries harvest their seafood products it is horrific.

Mayor Puletti explained that Hendry County has tremendous challenges and he doesn't feel that the Council did the Hendry County representatives fair service today.

AGENDA ITEM #5(c)
Legislative Issues and Priorities Report – Mr. David Hutchinson

Mr. Hutchinson reviewed the item as presented and distributed handout.

Chair Denham briefly reviewed the legislative priorities and also announced that there will be also a 3x5 card for a quick reference.

Commissioner Duffy thanked staff for including her concerns. She then asked if the local legislative delegation has been invited to the Council meetings.

Commissioner Judah stated that he agrees with Commissioner Duffy and feels that staff needs to put an effort towards inviting the local legislative delegation to the Council meetings.

Mr. Heatherington replied that staff has invited the local legislative delegation to the meetings and also he has invited Governor Elect Rick Scott to the December Council meeting but has received a response from his transition team.

AGENDA ITEM #6
PUBLIC COMMENTS

No public comments were made at this time.

AGENDA ITEM #7
DIRECTOR'S COMMENTS

Mr. Heatherington announced that the Council received a NADO Award for the Transportation Oriented Program.

Mr. Heatherington announced that the CHNEP will be hosting their Nature Festival this month.

AGENDA ITEM #8
STATE AGENCIES COMMENTS/REPORTS

No State agencies made comments at this time.

AGENDA ITEM #9
COUNCIL ATTORNEY'S COMMENTS

Ms. Donley announced that the Lee County MPO Staff Services Agreement between the SWFRPC and the Lee County MPO will be brought before the Lee County MPO at their December meeting and then it will be brought to the Council for consideration.

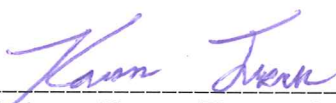
Ms. Donley noted the 2011 CHNEP Calendar which was distributed.

AGENDA ITEM #10
COUNCILMEMBERS' COMMENTS

No comments were made at this time.

AGENDA ITEM #11
ADJOURN

The meeting adjourned at 11:45 a.m.



Commissioner Karson Turner, Secretary

The meeting was duly advertised in the November 5, 2010 issue of the FLORIDA ADMINISTRATIVE WEEKLY, Volume 36, Number 44.