

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
NOVEMBER 20, 2008**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **November 20, 2008** in the Southwest Florida Regional Planning Council, 1st Floor Conference Room located at 1926 Victoria Avenue in Fort Myers, Florida. The meeting was called to order at **9:05 a.m.** by **Chairman Andrea Messina**. **Commissioner Butch 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, Councilman Don McCormick, Ms. Andrea Messina, Mr. Alan LeBeau
- Collier County:** Councilman Charles Kiester, Ms. Laura Holquist
- Glades County:** Commissioner Kenneth "Butch" Jones, Dr. Edward Elkowitz
- Hendry County:** Mayor Paul Puletti, Mr. Melvin Karau
- Lee County:** Commissioner Bob Janes, Commissioner Brian Bigelow, Mayor Mick Denham, Mayor Jim Humphrey, Councilman John Spear, Councilman Tom Babcock
- Sarasota County:** Commissioner Shannon Staub, Councilman Ernie Zavodnyik
- Ex-Officio Members:** Mr. Gordan Romeis for Mr. Jon Iglehart - FDEP, Mr. Phil Flood - SFWMD, Ms. Joanne McClellan for Ms. Dianne Davies - SWFWMD

MEMBERS ABSENT

- Charlotte County:** None
- Collier County:** Commissioner Jim Coletta, Commissioner Frank Halas, Councilwoman Teresa Heitmann
- Glades County:** Commissioner Paul Beck, Councilman Michael Brantley
- Hendry County:** Commissioner Janet Taylor, Mayor Mali Chamness -
- Lee County:** None
- Sarasota County:** Commissioner Jim Blucher, Mr. David Farley, Mr. George Mazzarantani

Ex-Officio Membership: Mr. Johnny Limbaugh - FDOT, Ms. Janet Watermeier - Watermeier Consulting & Property Services, Ms. Tammie Nemecek - EDC of Collier County

INTRODUCTIONS

Chairman Messina introduced Councilman Don McCormick from the City of Punta Gorda as the newest member of the Council.

AGENDA ITEM #1 AGENDA

Commissioner Janes moved and Commissioner Staub seconded to approve the agenda as presented. The motion carried unanimously.

AGENDA ITEM #2 MINUTES OF OCTOBER 16, 2008

Commissioner Janes moved and Commissioner Staub seconded to approve the minutes of October 16, 2008 as presented. The motion carried unanimously.

AGENDA ITEM #3 CONSENT AGENDA

Mayor Humphrey moved and Mr. LeBeau seconded to approve the consent agenda as amended: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for October 31, 2008; Agenda Item #3(c) City of Cape Coral Comprehensive Plan Amendments (DCA 08-2); Agenda Item #3(d) Hazardous Materials Emergency Preparedness (HMEP) Planning and Training Grant; Agenda Item #3(e) Emergency Planning and Community Right-To-Know Act (EPCRA) Hazardous Materials Awareness Week in SWF; Agenda Item #3(f) North Port Gardens DRI - Extension to Sufficiency Response Period; Agenda Item #3(g) Harborview DRI Substantial Deviation - Extension to Sufficiency Response Period; and Agenda Item #3(h) Florida Gulf Coast Technology & Research Park DRI - Extension to Sufficiency Response Period. The motion carried unanimously.

AGENDA ITEM #4(a) Lower West Coast Watersheds Subcommittee Report - Mayor Mick Denham

Mayor Denham reviewed SWFRPC Resolution #2008-12 Southwest Florida Regional Planning Council Stormwater Resolution for Retrofit Development and encouraged the members to review the resolution and then have the resolution presented for approval at the next Council meeting.

Councilman Kiester asked Mayor Denham if he will be developing a presentation for the implementation of the effort. Mayor Denham replied yes, but he has not had the discussion with the Subcommittee on the subject and what the implementation will be and involve.

Councilman Kiester stated that he was thinking in particular of having presentations given before local governments. Mayor Denham stated that he would be willing to give such presentations.

Mr. Heatherington stated that staff has been looking into scheduling RPC presentations before county commission and city council boards and perhaps staff can work with Mayor Denham to not duplicate but combine the two efforts. Mayor Denham stated that he has been working with Mr. Beever of staff to put together some type of appointment schedule for the PowerPoint presentations.

Mayor Humphrey suggested that at the January Council meeting allow a longer time slot for Mayor Denham to give a presentation on the history of the first five resolutions and then come forward with the sixth resolution and the recommendations.

Chairman Messina announced that Mayor Denham received the Annual Award of the Southwest Florida Conservation of Environmental Educators.

Councilman Babcock asked Mayor Denham if he felt that the right measures of success along with the baselines to know if this is implemented that we have made improvements. Mayor Denham replied that he believes that we have great plans and that there hasn't been any further pollution problems due to the lack of severe weather and storms. However, he feels that there are certain things that need to be implemented in order to be sure that this happens.

Councilman Babcock asked if the Council's resolutions are tied into the State's guidelines. Mayor Denham explained that there are two issues. One of the State's Rules is the Fertilizer Rule and he would support it at a minimal level, but unfortunately what was being pushed through the House and Senate was a Fertilizer Rule but with pre-emption attached to it. In other words, any ordinance that any community had put in place to protect their waters the State was going to pre-empt that and insist on a Rule. The Rule was not sufficient to do what needed to be done, so the pre-emption issue was the reason he spent a lot of time in Tallahassee last year. The other activity that is going on is there is another State Rule that is being worked on, Stormwater. The State has taken all of the work the Subcommittee has done and has considered part of their Rule on Stormwater.

AGENDA ITEM #4(b)

Nominating Committee Selection - Chairman Andrea Messina

Chairman Messina announced that she has selected the following members to serve on the Nominating Committee:

- Commissioner Bob Janes, Lee County BOCC
- Ms. Laura Holquist, Collier County Governor Appointee
- Commissioner Butch Jones, Glades County BOCC

Mayor Denham moved and Councilman Kiester seconded to approve the slate for the Nominating Committee. The motion carried unanimously.

Mr. Heatherington announced that the Council had obtain a new technology called WebEx which can help by saving members travel costs and can be used for Council subcommittee meetings. He then asked Ms. Jennifer Pellechio to give an overview of the WebEx technology.

AGENDA ITEM #4(c)
29I Rules and Fee Agreement - Ms. Liz Donley

Ms. Donley gave a status update of the Council's rules schedule and fee agreement. She noted that upon additional review of procedures for developing rules there is a quirk where deadlines conflict. The Joint Administrative Procedures Committee (JAPC) is to receive 20 days notice that the Council is proposing to adopt a new rule, but they have 45 days to reply back if they have any comments. So if the Council follows the procedures strictly the rules can be adopted and receive comments back from JAPC that the rules need to be amended. She is proposing that the adoption date be set passed the 45 day comment period that JAPC has to reply. She proposed that the Council submits its Notice of New Rules on December 3rd to the Florida Administrative Weekly (FAW) and to JAPC; published on December 12th in the FAW; hold the public hearing on December 19th, which is the day after the next regularly scheduled Council meeting; and the proposed adoption date is February 19th, which gives the JAPC approximately 60 days for comments.

Ms. Donley then stated in regards to the fee schedule many of the services that the Council provides have state mandated fee schedules, but there are also other services that the Council provides that are not state mandated fee schedules; and currently staff has been negotiating on an individual basis agreements with each applicant when services are conducted that are not covered by the state fees. Staff would like to put together a formal fee schedule and post it on the website so applicants will know upfront what the costs will be for different services. Most of these fees are for pre-meetings before they enter into the DRI process.

Chairman Messina asked if there were any objections to the revision of the 29I Rule Schedule.

There were no objections noted to the amended 29I Rule Schedule, the amended 29I Rule Schedule was approved as presented.

Chairman Messina stated that staff proposes the second action be the fee agreement where staff creates the fee agreement, post it on the website, and give 20 days notice, but not bring it before the Council.

Mr. LeBeau stated that he felt that the fee agreement needed to come back before the Council.

Chairman Messina stated that the Council requests that the fee schedule be presented to the Council for review and approval and then once it is approved it can be posted on the Council's website.

AGENDA ITEM #5(a)
Northern Everglades/Caloosahatchee River Watershed Protection Plan - Mr. Phil Flood,
SFWMD

Mr. Flood gave a PowerPoint presentation on the Northern Everglades/Caloosahatchee River Watershed Protection Plan as contained in the agenda packet.

Mr. Karau asked what the starting levels of phosphorous are if it is being reduced by 39%. Mr. Beever of staff explained that in Florida it is a lower value with regard to phosphorus, our background phosphorus is generally around 9 units within the river. In terms of the reductions with the program it will get us closer to the goal, but we will not achieve that.

Mr. Karau asked what the limits for Lake Okeechobee are. Mr. Beever explained that Lake Okeechobee is naturally atrophic, so you would expect a higher level of phosphorus to occur within the lake and it depends on where you sample whether you would be in a littoral zone or in the central lake.

Mr. LeBeau stated that Glades County has been hurt the worst by the State coming in and buying up all of the property and losing their tax revenue. Has this been taken into consideration on this issue with this presentation? Mr. Flood stated that it has been taken into consideration, some property has been taken off and there will be others. Many of the projects have not been specifically identified; some have been identified like the Four Corners project, etc. for acquisition. He explained that SFWMD is not looking to purchase large amounts of lands.

Mr. Flood explained the Florida Ranch Lands and Environmental Services Program which is a pilot program where the SFWMD pays the land owners to do the water storage. The land owner may have an existing canal and the SFWMD may pay them to store additional water on the land or there may be dry wetlands on the property and pay them to pump water onto the property.

Commissioner Jones reminded the Council of how devastating it is to Glades County when the government agencies take lands off their tax rolls (i.e. land purchased off SR80 and land by Fisheating Creek).

Ms. Holquist asked how the SFWMD pays for the land acquisitions (i.e. US Sugar). Mr. Flood explained that the SFWMD has an obligation to set aside \$100 million to match them, so that was considered in our revenue source and what our expenditures are going to be. The Governing Board has made it clear thus far that there is no intention to raise the taxes. Ms. Holquist asked if taxes are the District's main funding source. Mr. Flood replied yes, along with legislative appropriations.

Dr. Elkowitz asked how the SFWMD anticipates reducing the phosphorus levels by 39%. Mr. Flood explained that the staff that put this together looked at each project and looked at the water flows that are coming out of the various tributaries and off the properties as they are today.

Dr. Elkowitz stated but there is a natural constant endless supply of phosphorus coming off the properties. Mr. Flood said that is correct and there are these targeted amounts to reduce it by and

so these projects are being captured, stored and treated and then the water coming off is cleaner than without these projects. Dr. Elkowitz stated but then aren't you dumping clean water into a river that is still being polluted by nature.

Mayor Denham stated that in the modeling that has been done it has shown that there is a natural background level of phosphorus, but what the SFWMD is saying is that we don't want to add anymore to that natural level.

Mayor Humphrey stated that we need to look at the big picture and that it is an economical situation and the costs associated with not moving forward with the project will be much greater in the long run. He also stated that he believes that a regional approach needs to be applied.

Commissioner Bigelow asked about the types of impacts that will occur from the US Sugar acquisition on the Caloosahatchee River.

Mr. Flood explained that the District is still in ongoing negotiations and has shifted from buying everything from US Sugar to just buying the land. There is no final contract; however, we hope to see something within the next couple of weeks. There is a workshop coming up on December 2nd dedicated to the US Sugar acquisition, then a board meeting is scheduled for December 15th and 16th where they may accept the contract. There are approximately 180,000 acres; US Sugar will keep the mill, railroad, and juice plant. The District only intends to keep the lands that are needed for environmental restoration. The focus is largely to accomplish water storage from lake water and to be able to treat the water, clean it, and move it to the south. There may be some instances where the District may have to move some of the water to the east and west. There is currently no design project at this point or footprint, but there have been several concepts. He explained that there are also discussions with US Sugar on leasing the land back.

Commissioner Cummings asked what the reason for leasing the land back is. Mr. Flood replied that there were several reasons for leasing the land back:

- Land Management
- Keep Agriculture in the Region
- District doesn't want to be in the Sugar, Citrus, etc. Business

Commissioner Cummings asked if there is any anticipation or potential for this becoming some type of an energy producing (i.e. bio-fuel, ethanol, etc.) Mr. Flood stated that according to some reports, US Sugar is looking into the possibility of entering into a contract with an energy producing firm to start producing energy at the sugar mill.

Commissioner Jones stated that if agriculture were to be taken out of Glades and Hendry Counties they would be bankrupt.

Councilman Babcock asked if there is a soluble byproduct to use to cleanup nitrogen and phosphorus. Mr. Flood explained not really, a lot of the cleanup is done through holding and retaining the water in swales and through vegetation. The District is conducting a pilot project that just got kicked off in Lee County called the turf scrubber. It takes water out of the water body and

runs it down the slope platform and grows algae, then the algae grows on the fiber and it takes the nutrients out of the water.

Mayor Denham suggested having a discussion at a future Council meeting on land acquisition.

Chairman Messina stated that it has been discussed that now that the Lower West Coast Watersheds Subcommittee is nearing its completion of tasks that a new subcommittee be formed to deal with the energy and climate issues.

AGENDA ITEM #5(b)

Reviving the Economy through Climate Prosperity - Mr. Ken Heatherington

Mr. Heatherington reviewed the item as presented in the agenda packet and distributed handouts.

Ms. Holquist stated that she believes that it is really important for a subcommittee to be successful if they have a leader that is very passionate about the subject matter.

Mr. LeBeau stated that the leader of the subcommittee also needs to be neutral.

Commissioner Janes suggested taking the issue back to the local boards for discussion and then bring it back to the Council at its next meeting with some recommendations.

Commissioner Bigelow asked which county has a Sustainability Division. Chairman Messina replied that Sarasota County has a Sustainability Division.

Commissioner Cummings recommended asking Commissioner Staub to serve as Chair of the new Energy and Climate Subcommittee.

Chairman Messina suggested asking Commissioner Staub or perhaps Commissioner Thaxton, she then asked for volunteers to serve on the Subcommittee. The following members volunteered:

- Mr. Mel Karau, Hendry County Governor Appointee
- Commissioner Adam Cummings, Charlotte County BOCC
- Mr. Phil Flood, SFWMD
- Commissioner Brian Bigelow, Lee County BOCC
- Councilman Chuck Kiester, City of Marco Island
- Mr. Alan LeBeau, Charlotte County Governor Appointee
- Commissioner Paul Beck, Glades County BOCC

AGENDA ITEM #5(c)

Visioning Organizational Meetings - Mr. Ken Heatherington

Mr. Heatherington reviewed the item as presented.

Councilman Zavodnyik asked if there has been any word on prioritizing the projects in Florida for federal funding. Mr. Heatherington explained that some of the national representatives at the federal level had requested that we put together such a list of projects that are ready to go.

Ms. Holquist asked if there has been an agenda drafted for the December 4th Forum. Mr. Heatherington explained that staff has been discussing the agenda with Cambridge Systematics and the Bell David Group and it will be posted on the website.

AGENDA ITEM #5(d)
Other Emerging Regional Issues

Mayor Denham stated that he was asked by Commissioner Thaxton to address the NPDES issue as noted in the distributed letters.

Mayor Humphrey moved and Commissioner Cummings seconded to support the CHNEP and Tampa Bay RPC and to have Mr. Beever of staff compose a letter illustrating the Council's concerns.

Mayor Humphrey stated that due to the time constraints that the motion should give Mr. Beever the authority to send out the letter.

Mr. Heatherington asked for Mr. Beever to explain the difference between the two letters. Mr. Beever stated that he feels that the points made by the CHNEP should be the route that the Council should take because he knows that those points are accurate and fully reflect the type concerns that our region would have. He stated that he will model the Council's letter based upon the CHNEP's letter.

The motion carried unanimously.

AGENDA ITEM #6
PUBLIC COMMENTS

There were no public comments at this time.

AGENDA ITEM #7
DIRECTOR'S COMMENTS

Mr. Heatherington asked the Council if they would prefer to cancel its December meeting due to the holidays.

Mayor Denham moved and Mayor Humphrey seconded to cancel the Council's December 18th meeting and have the next regular Council meeting January 15, 2009. The motion carried unanimously.

Mr. Flood noted that the Lee County Legislative Delegation Meeting has been scheduled for January 15th.

Mr. Heatherington stated that a polling will be conducted to decide which date will fit everyone's schedule.

**AGENDA ITEM #8
STATE AGENCIES COMMENTS/REPORTS**

SFWMD - Mr. Flood announced that December 2nd is the meeting for the US Sugar acquisition and December 15-16 is the SFWMD's Board Meeting in West Palm Beach.

SWFWMD - Ms. McClellan announced that the Cooperative Funding deadlines are December 5th at 2:00 p.m.

**AGENDA ITEM #9
COUNCIL ATTORNEY'S COMMENTS**

Ms. Donley had no comments at this time.

**AGENDA ITEM #10
COUNCILMEMBERS' COMMENTS**

Councilman Spear announced that the City of Bonita Springs adopted their Fertilizer Ordinance which was consistent with the Lee County Ordinance.

Mr. LeBeau asked if the Council should take action on the issue of leasing Alligator Alley.

Chairman Messina suggested contacting Senator Aronberg's office and asking if he would be willing to come to speak on the issue on Alligator Alley to the Council in January.

Mr. LeBeau expressed his concerns regarding land acquisition by government agencies. He also expressed his concerns about the money that FDOT is spending on putting up chain link fencing around retention ponds.

Councilman Kiester stated that we are all inner-connected and those of us who represent urban areas need to know and realize that if those cities/counties fail that the rest of us are going to be highly affected/impacted as well.

Commissioner Jones thanked both Commissioner Cummings and Mayor Humphrey for their kind words made previously in the meeting in support of rural counties.

**AGENDA ITEM #11
ADJOURN**

The meeting adjourned at 11:10 a.m.



Commissioner Paul Beck, Secretary

The meeting was duly advertised in the November 7, 2008 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 34, Number 45.