

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
SEPTEMBER 17, 2009**

The regular meeting of the Southwest Florida Regional Planning Council was held on September 17, 2009 at the Kimal Event Center at 11184 Hughey-Kimal Drive in Venice, Florida. Chairman Jim Humphrey 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, Commissioner Tricia Duffy, Commissioner Robert Skidmore, Ms. Andrea Messina, Mr. Alan LeBeau

Collier County: Commissioner Jim Coletta, Mr. Bob Mulhere

Glades County: None

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

Lee County: Mayor Mick Denham, Commissioner Ray Judah, Commissioner Tammy Hall, Mayor Jim Humphrey, Mayor Jim Burch, Councilman John Spear, Ms. Laura Holquist

Sarasota County: Commissioner Jon Thaxton, Commissioner Carolyn Mason, Commissioner Tom Jones, Mr. George Mazzarantani

Ex-Officio Members: Ms. Terri Behling for Ms. Dianne Davies - SWFWMD, Mr. Jon Iglehart - FDEP, Mr. Phil Flood - SFWMD

MEMBERS ABSENT

Charlotte County: None

Collier County: Councilwoman Teresa Heitmann, Councilman Charles Kiester, Commissioner Frank Halas

Glades County: Councilman Michael Brantley, Dr. Edward Elkowitz, Commissioner Kenneth "Butch" Jones, Commissioner Paul Beck

Hendry County: Commissioner Karson Turner, Mayor Mali Chamness

Lee County: Councilman Tom Babcock, Mr. Paul Pass

Sarasota County: Councilman Ernie Zavodnyik, Mr. David Farley

Ex-Officio Membership: Mr. Johnny Limbaugh - FDOT, Ms. Tammie Nemecek - EDC of Collier County

**AGENDA ITEM #1
AGENDA**

No changes were made to the agenda at this time.

**AGENDA ITEM #2
MINUTES OF JUNE 18, 2009**

Commissioner Judah moved and Commissioner Coletta seconded to approve the minutes of June 18, 2009. The motion carried unanimously.

**AGENDA ITEM #3
CONSENT AGENDA**

Commissioner Judah pulled Item #3(i) The Red Sox Stadium DRI - Pre-Application Questionnaire Checklist and Item #3(j) City of Cape Coral Comprehensive Plan Amendment (DCA 09-2) for discussion.

Commissioner Thaxton pulled Item #3(k) Sarasota County Comprehensive Plan Amendment (DCA 09-D1) for discussion.

Commissioner Thaxton moved and Ms. Messina seconded to approve the balance of the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statements for June 30, 2009, July 31, 2009 & August 31, 2009; Agenda Item #3(c) SWFRPC Fixed Assets Removal; Agenda Item #3(d) SWFRPC/DCA FY09/10 Annual Contract ; Agenda Item #3(e) Town of Big Cypress DRI - Request for Sufficiency Response Extension; Agenda Item #3(f) Harborview DRI - Substantial Deviation Request for Extension; Agenda Item #3(g) Florida Gulf Coast Technology & Research Park DRI - Request for Extension; Agenda Item #3(h) North Port Gardens DRI - Request for Extension; and Agenda Item #3(l) Jetport DRI - Substantial Deviation Request for Extension. The motion carried unanimously.

**AGENDA ITEM #3(i)
The Red Sox Stadium DRI - Pre-Application Questionnaire Checklist**

Commissioner Judah requested that reclaimed wastewater for irrigation is addressed. Mr. Trescott of staff stated that he will make a special note, but staff does usually require reclaimed wastewater for irrigation.

Commissioner Judah moved and Commissioner Hall seconded to approve the pre-application questionnaire checklist as amended.

Commissioner Judah stated that Lee County is looking to have the Red Sox Stadium be a LEED certified building.

The motion carried unanimously.

AGENDA ITEM #3(j)
City of Cape Coral Comprehensive Plan Amendment (DCA 09-2)

Commissioner Judah explained that the reason for pulling the item is he has conservation concerns with the project.

Mr. Crawford of staff explained that there are two issues that staff has concerns with, besides normal transportation, the first issue are the new planning laws associated with Chapter 360; because the project should be going through the DRI process and it isn't because the City of Cape Coral is an exempt area in accordance to Chapter 360, therefore, this project is exempt from the DRI process unless the applicant does it voluntarily. The comprehensive plan states that it handles these types of issues through DRIs, but the DRI process is currently being challenged in court so staff cannot require this to be a DRI even though the project has DRI impacts.

Secondly, staff was focused mostly on the environmental issues on this project to make sure that there was language and text changes to those environmental areas and requested that the city conduct an environmental impact re-assessment and there is language within the text which states that those areas are preserved and will be preserved forever.

Commissioner Judah stated that because of the ramifications of the project that he would expect that the applicant would voluntarily go through the DRI process.

Mayor Denham asked if it has been requested of the applicant to go through the DRI process. Mr. Crawford explained that it would have to be presented to the applicant that the project could be a DRI, but as far as he knows that the project is not going to be a DRI because State Law states that it doesn't have to be unless they voluntarily go through the DRI process.

Mr. Heatherington explained that there have been numerous DRIs throughout the State that have voluntarily gone through the DRI process due to the multi- and extra-jurisdictional impacts.

Mayor Denham asked if the applicant has been asked to go through the DRI process. Mr. Crawford replied that staff had suggested that the project go through the DRI process to the applicant but to this date there has been no response back.

Chairman Humphrey suggested that the Council officially request that the applicant go through the DRI process.

Commissioner Judah moved and Mayor Denham seconded to have the Council forward an official request to the applicant that they go through the DRI process.

Mayor Burch explained that the process for the project has been going on since 2002. He cannot speak on behalf of the applicant on whether or not they will agree to go through the DRI process.

He also stated that he is also an environmentalist and he believes that the city has done a lot of things to try to address those issues. He noted that the city and applicant have had discussions with DCA Secretary Pelham to ensure further preservation.

Commissioner Hall asked under Chapter 360 and also under DCA Secretary Pelham's interpretation of Chapter 360, it is her understanding that municipalities and counties that could forego the DRI process would have to make a comprehensive land use amendment to identify the areas in which they are going to allow Chapter 360 to take affect and everything else that comes in outside of those areas would have to go through the DRI process.

Mr. Crawford stated that he asked the same question. He felt that a project wouldn't be exempt from the DRI process until the municipalities/counties identified the areas that were going to be exempt and amended their plan(s) to amend their transportation element and capital improvement element, then they would receive the benefit of not becoming a DRI, but he was informed by DCA that wasn't the case. They actually get to be exempt immediately because they are determined by the list by DCA on the density requirements, which Cape Coral meets; at that point once the list was approved as required by Chapter 360, they are automatically exempt.

Ms. Messina stated that if staff has been told by DCA that this project is exempt from the DRI process by law then the only thing that the Council can do is strongly encourage the applicant to willingly participate and that there are a lot of eyes watching.

Councilman McCormick stated that currently there is a lawsuit which may overturn Chapter 360, in that event we would revert to the DRI situation. He then asked staff if someone has noted to the applicant that if they don't decide to voluntarily go through the DRI process and if Chapter 360 gets overturned that the project could be delayed. Mr. Crawford explained that actually once the zoning is approved the project is ready for development.

Ms. Holquist explained that there is a similar project on the east coast that is in similar status and that Chapter 360 was caused by the prior Chapter 360 in 2005. There were two DRIs that went through prior to 2005 that took \$1 million and 2 years to accomplish. The DRIs since 2005 has taken 4 years to accomplish and \$6 million. So the new Chapter 360 is to bring things back in order to prior 2005. She then suggested that instead of having the applicant go through the DRI process, to have Council staff extract elements from the DRI process that are important to the region (environmental, transportation, etc.) and then get all of local jurisdictions to agree to those elements. She stated that she doesn't believe any developer is going to volunteer to go through the DRI process within this type of market/developer. She believes that if it is made plausible to the applicant then it will be the answer to our needs as a Council.

The motion passed with a 12 to 8 vote.

AGENDA ITEM #3(k)
Sarasota County Comprehensive Plan Amendment (DCA 09-D1)

Commissioner Thaxton stated that staff did a great job in addressing the issues; however, he does have some concerns which he did at the county level and he would appreciate another member making a motion to approve the item, but he will not be in support of it.

Ms. Messina moved and Commissioner Mason seconded to approve staff comments. Authorize staff to forward comments to the Department of Community Affairs and Sarasota County. The motion carried with two opposed.

AGENDA ITEM #4(a)

Lower West Coast Watersheds Implementation Committee - Vice Chairman Mick Denham

Mayor Denham gave a status report on the committee.

Councilman Spear requested to have staff keep the Council informed of the progress of the meetings. Mayor Denham stated that he would have staff work on that task. Also, there is a DEP proposal that he is awaiting staff's review on.

Mr. Flood confirmed that the SFWMD has stopped all work on the Basin Rule and is now working on the State wide Stormwater Rule and SFWMD staff has been working with FDEP's staff. He is expecting to have workshops held on the State-wide Stormwater Rule in the beginning of 2010.

Chairman Humphrey suggested placing the item on the October agenda for discussion.

AGENDA ITEM #4(b)

Energy & Climate Committee - Commissioner Jon Thaxton

Commissioner Thaxton gave a brief status report on the committee.

Chairman Humphrey suggested placing the item on the October agenda for discussion.

Commissioner Judah asked Commissioner Thaxton if the committee had set any deadline dates on when they would like to see any of the recommendations implemented. Commissioner Thaxton explained that the committee has not set any deadline dates at this time. It was one of the discussions that the committee did have and the committee decided that the committee needed to set their priorities first and then attach deadlines. He stated that it will be discussed at the next meeting of the committee.

AGENDA ITEM #4(c)

Budget Committee - Ms. Laura Holquist

Ms. Holquist reviewed the item as contained within the agenda packet.

Chairman Humphrey referred to the Reserve Policy in the agenda packet and asked for a motion.

Commissioner Hall moved and Commissioner Chapman seconded to approve the adoption of the Council's Reserve Policy.

Mr. Heatherington gave a status overview of the negotiations of the leasing of parking spaces to the Probation Office.

Commissioner Skidmore asked what the percentage of annual revenue is. Ms. Yell stated that she didn't have that information at this time, but will get the answer to him before the end of the meeting.

The motion carried unanimously.

AGENDA ITEM #5(a)
Legislative Wrap-up - Mr. Keith Arnold

Mr. Heatherington explained that Mr. Arnold was unable to attend due to a scheduling conflict, but he is scheduled to be one of the panelists at the State of the Region Address Workshop.

Commissioner Coletta requested that the members contact their local legislators and invite them to a Council meeting.

Commissioner Thaxton stated that with his conversations with Senator Bennett that SB360 will again be on the legislative floor during the next session. He then referred to the two of the four letters that were included in the agenda packet, which carried the exchange from Senator Bennett to DCA Secretary Pelham and if there is any question as to the clarity of the bill it is put to rest when you read the letters. When you write a growth management bill that even the Secretary of the State can't understand then you have a very serious problem with your bill, at least in terms of its clarity. He feels pretty confident that Senator Bennett is going to make it explicit rather than implicit in his glitch bill on SB360 to clarify those interpretations that he believes the secretary misinterpreted.

Mr. Heatherington stated that as a segway between SB360 and Amendment 4 (a.k.a. Hometown Democracy), yesterday's Cabinet upheld a 4-0 vote in Marion County on the development of 800 residential units based on need. This was based on the Cabinet decision, they stated that there wasn't a need for 800 residential units in Marion County and the developer argued that it was a matter of choice not need. But the Cabinet voted 4-0 and in the presentation it was stated that it was also an example on how government can work and that they don't need Amendment 4 because the citizens do have the right to intercede in the comprehensive plan amendment.

AGENDA ITEM #5(b)
Council Retreat 2009 - Mr. Ken Heatherington

Mr. Heatherington gave an overview of the Council Retreat.

Commissioner Chapman asked the members to place the colored dots next to the issue(s) they feel are the most important. The following priorities were identified:

- 1) SB360 and Growth Management
- 2) Amendment 4 - Hometown Democracy
- 3) Oil Drilling/Gulf Drilling
- 4) Funding Unfunded Mandates
- 5) US Sugar/Inland Port & Water Supply/ Water Quality Initiatives

AGENDA ITEM #5(c)
Other Emerging Regional Issues

2010 Census Partner Proclamation

Mr. Heatherington reviewed the item as contained in the agenda packet.

Ms. Messina moved and Commissioner Mason seconded to approve having the Chairman execute the 2010 Census Partner Proclamation. The motion carried unanimously.

State of the Region Address

Mr. Heatherington reviewed the item as contained in the agenda packet. He also gave an overview of the Green Region Expo which is being held on Saturday, October 17th at the Charlotte Harbor Event & Conference Center.

Chairman Humphrey stated that staff was able to come up with the percentage for their annual revenues and with the current Reserve Policy the Council should have 17%.

AGENDA ITEM #6
PUBLIC COMMENTS

No public comments were made at this time.

AGENDA ITEM #7
DIRECTOR'S COMMENTS

Mr. Heatherington thanked the members for traveling around the region and also asked them to fill out the registration form for the October 15th State of the Region Address and return them to Ms. Gwinnett prior to the September 30th deadline.

Mr. Heatherington announced that he was on the Hodges University Diversity Committee and March 6th is the Diversity Festival at the Estero Community Park and they are in the process of inviting the Seminole Indian Tribe to part of the process.

AGENDA ITEM #8
STATE AGENCIES COMMENTS/REPORTS

FDEP - Mr. Iglehart stated that this Saturday morning is DEP beach clean-up weekend.

AGENDA ITEM #9
COUNCIL ATTORNEY'S COMMENTS

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

**AGENDA ITEM #10
COUNCILMEMBERS' COMMENTS**

Mayor Burch thanked Mayor Denham, Commissioner Thaxton and Ms. Holquist for their time that they spend with the various committees. He also thanked the Council for supporting his efforts on the Cape Coral project.

Ms. Messina stated that she expects that some of the local municipalities are lowering the ad valorem assessments but are noticing that the school districts have to increase their mill age. She explained that the Florida Education Finance Plan requires a certain amount of local effort and the state legislators budget analysis has shifted from state level funding to local funding, so your local school districts required effort is a higher amount so we don't really have a choice in the matter but to assess at a higher level. Also, while the State had expected fewer students this year (+6,000 fewer) statewide they have only been reporting +2,000 fewer students statewide, so it appears the bleeding has somewhat subsided.

Councilman Spear expressed his appreciation of being able to move the meetings around the region.

Mr. Mazzarantani expressed his appreciation of being able to move the meetings around the region.

Commissioner Hall stated that she would like to thank the City of Punta Gorda because the Florida Association of Counties held a meeting at the Charlotte Harbor Event and Conference Center and everyone enjoyed themselves.

Councilman McCormick stated that the city has to give some credit to Charlotte County since they did put most of the money into the conference center.

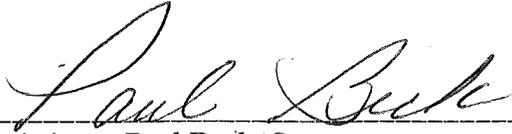
Commissioner Duffy explained that the city owns the land and the county owns the building, so it is a great partnership.

Commissioner Tom Jones thanked the Charlotte County BOCC for their support and their letter of recommendation for the TIGER grant for Sumter Boulevard.

Commissioner Duffy thanked the Sarasota County BOCC for their support and their letter of recommendation for the TIGER grant.

**AGENDA ITEM #11
ADJOURN**

The meeting adjourned at 10:40 a.m.



Commissioner Paul Beck, Secretary

The meeting was duly advertised in the September 4, 2009 issue of the FLORIDA ADMINISTRATIVE WEEKLY, Volume 35, Number 35.