

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

The regular meeting of the Southwest Florida Regional Planning Council was held on December 17, 2009 at the Southwest Florida Regional Planning Council - 1st Floor Conference Room at 1926 Victoria Avenue in Fort Myers, Florida. Acting Chair Mick Denham called the meeting to order at 9:00 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
- Collier County:** Councilman Charles Kiester, Commissioner Jim Coletta, Councilwoman Teresa Heitmann Mr. Bob Mulhere
- Glades County:** Dr. Edward Elkowitz
- Hendry County:** Mayor Paul Puletti, Mr. Melvin Karau
- Lee County:** Commissioner Tammy Hall, Commissioner Ray Judah, Mayor Mick Denham, Councilman John Spear, Ms. Laura Holquist, Councilman Forrest Banks, Mayor John Sullivan, Councilman Tom Babcock, Mr. Paul Pass
- Sarasota County:** Commissioner Jon Thaxton, Commissioner Carolyn Mason, Commissioner Tom Jones, Councilman Ernie Zavodnyik, Mr. George Mazzarantani
- Ex-Officio Members:** Ms. Dianne Davies - SWFWMD, Mr. Jon Iglehart - FDEP, Mr. Phil Flood - SFWMD, Mr. Johnny Limbaugh - FDOT, Ms. Tammie Nemecek - EDC of Collier County

MEMBERS ABSENT

- Charlotte County:** Mr. Alan LeBeau
- Collier County:** Commissioner Frank Halas
- Glades County:** Commissioner Kenneth "Butch" Jones, Commissioner Paul Beck, Councilman Michael Brantley
- Hendry County:** Commissioner Tristan Chapman, Commissioner Karson Turner, Mayor Mali Chamness

Lee County: None

Sarasota County: Mr. David Farley

Ex-Officio Membership: None

INTRODUCTIONS

Acting Chair Denham introduced: Ms. Diana McGee, Regional Director from US Senator Bill Nelson's Office; and Mr. Mathew Spielman, Field Representative from US Congressman Connie Mack's Office.

AGENDA ITEM #1 AGENDA

Commissioner Hall moved and Ms. Messina seconded to approve the agenda as presented. The motion carried unanimously.

AGENDA ITEM #2 MINUTES OF NOVEMBER 19, 2009

Commissioner Mason moved and Commissioner Skidmore seconded to approve the minutes of November 19, 2009 as presented. The motion carried unanimously.

AGENDA ITEM #3 CONSENT AGENDA

Mr. Mulhere noted that he would be abstaining from voting on Agenda Item #3(c) Toll-Rattlesnake DRI - Request for Sufficiency Response Extension due to a conflict of interest and requested the proper forms to fill out.

Commissioner Judah moved and Ms. Messina seconded to approve the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for November 30, 2009; Agenda Item #3(c) Toll-Rattlesnake DRI - Request for Sufficiency Response Extension; Agenda Item #3(d) Florida Gulf Coast Technology & Research Park DRI - Request for Sufficiency Response Extension; Agenda Item #3(e) Lee County Comprehensive Plan Amendment (DCA 09-1ER); and Agenda Item #3(f) SWFRPC Fixed Assets Removal. The motion carried with Mr. Mulhere abstaining.

AGENDA ITEM #4 LEE COUNTY RED SOX BALL PARK TRAINING FACILITY DRI STAFF ASSESSMENT

Mr. Utley of staff reviewed the item as presented.

Commissioner Judah moved and Commissioner Mason seconded to recommend Conditional Approval of the Lee County Red Sox Ballpark & Spring Training Facility 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.

Acting Chair Denham asked the Council if it would be their preference to move the January meeting from the 21st to the 28th to have Representative Aubuchon to speak on legislative issues and to have the meeting primarily dedicated to legislative issues.

Commissioner Judah moved and Councilman McCormick seconded to move the January 2010 board meeting from Thursday, January 21st to Thursday, January 28, 2010. The motion carried unanimously.

AGENDA ITEM #5(a)

2010 Nominations Committee - Acting Chair Mick Denham

Acting Chair Denham explained that he had asked Commissioner Coletta to be the Chair of the Nominations Committee which he had accepted. He then asked both Commissioner Judah and Commissioner Thaxton if they would work with Commissioner Coletta in selecting a date and time to meet, which can be done by a conference phone meeting, they both accepted.

Commissioner Coletta stated that he will have his office contact both Commissioner Judah and Commissioner Thaxton to set up a date and time for the Nominations Committee meeting before the January meeting.

AGENDA ITEM #5(b)

Lower West Coast Watershed Implementation Committee - Mr. James Beever

Acting Chair Denham explained that Mr. Beever of staff will be giving an overview of the following items which the committee has been reviewing and then Mr. Drew Bartlett of FDEP from Tallahassee will respond to some of the thoughts that Mr. Beever has representing the committee.

State Stormwater Standards

Mr. Beever reviewed the letter as presented.

Acting Chair Denham explained that he would like to offer a resolution to the Council for consideration at the January meeting on stormwater reflecting FDEP's provisions.

Dr. Elkowitz stated that he feels that hormones and pharmaceuticals that are being disposed of into the water systems are not being addressed. Mr. Beever explained that there are two basic reasons that hormones and pharmaceuticals are not being discussed, hormonal components typically come from the human waste stream or from certain types of agriculture and do not show up in stormwater (i.e., runoff from the buildings, streets, etc.) The other reason that it is not addressed is the FDEP approach to the stormwater role is to use major constituents (i.e., phosphorus) as a main surrogate for all of the other things that travel with it.

Vice Chair Kiester asked how the new classification would work with the Outstanding Florida Waters (OFW). Mr. Beever explained that the OFW would still continue to exist as a separate designation from these designations as well.

Mr. Mulhere asked Mr. Beever that with the changes that the committee is recommending as part of the analysis, are there any physical impacts that would be significantly greater attached to those recommendations. Mr. Beever explained that to certain extent nitrogen gets treated as you deal with phosphorus issues, but there also would be other techniques that you would utilize in your suite of best management practices that address nitrogen in other ways; particularly in regards to source reduction.

Councilwoman Heitmann thanked the committee for all of the work that it has done. She then stated that she would like to have an update of all of the municipalities that have adopted a fertilizer ordinance. Mr. Beever explained that staff maintains a table on its website and each quarter he adds new entities to the table, but the table only reflects what happens within Southwest Florida, but staff has also been providing assistance to Tampa Bay, east coast and far north as to Alachua and the Gainesville area because we are ahead, particularly in Sarasota and Sanibel, and have been providing technical assistance to others. The last count that he has heard within the State is that 20 jurisdictions that have adopted local fertilizer rules.

Acting Vice Chair Kiester noted that the City of Marco Island has been converting over from septic tanks to central sewer and recently the State Department of Health has changed their rule to allow septic tanks to be converted over to cisterns. At their last meeting, the city council had agreed to waive the fees for those residents that connect to the central sewer to make the transition at the minimum costs possible and also encourage them to send a letter to the Collier County Department of Health asking that they waive their \$295 fee for the purpose of encouraging the conversion.

Ms. Davies stated that the SWFWMD will assist any local government in developing a fertilizer ordinance.

DEP Designated Issues

Mr. Beever reviewed the letter as presented.

Mr. Bartlett of FDEP gave a PowerPoint presentation on FDEP's Designated Uses and Surface Water Classification System.

Mr. Pass stated that the process of treating the water is by using a by-product, what happens to that by-product. Mr. Bartlett explained that there is a bio-solids rule being undertaken at FDEP which deals with wastewater treatment. He explained that he is not the expert to answer the question but he can have someone get back to Mr. Pass with a more detailed answer.

Mr. Flood asked what the timeframe for adoption is. Mr. Bartlett replied that a workshop is scheduled for early January and the ERC meeting is scheduled for late February.

Mr. Mulhere asked if the EPA was involved with the rulemaking process. Mr. Bartlett explained that the EPA's rules were adopted in the standards.

Public Speaker:

Ms. Amber Crooks on behalf of the Conservancy of Southwest Florida addressed the Conservancy's concerns regarding both the statewide stormwater standards and DEP's designated uses.

AGENDA ITEM #6(a)
SWFRPC Resolution in Support of the Construction of Large Scale Photovoltaic Electronic Generating Facilities and the Development of Renewable Energy Standards within the State of Florida - Mr. Ken Heatherington

Commissioner Judah moved and Commissioner Hall seconded to approve SWFRPC's Resolution in Support of the Construction of Large Scale Photovoltaic Electronic Generating Facilities and the Development of Renewable Energy Standards within the State of Florida.

Commissioner Tom Jones stated that the City of North Port adopted a resolution in support of both renewable portfolio standards and feed-in tariff and when the Council had its discussion last month he was encouraged by the discussion that it included both renewable portfolio standards and renewable energy production. He then stated that after reviewing the current resolution it doesn't include renewable portfolio standards so he requested that the current resolution be amended to state that the Council supports the adoption of renewable portfolio energy standards.

Commissioner Judah stated that he agrees with Commissioner Jones but is concerned about the legislature understanding what the definition is of renewable portfolio energy standards along with trying to get the Energy Bill passed; he then suggested drafting a separate resolution for the renewable portfolio energy standards because at this point in time, he doesn't want to hold up an opportunity for Babcock Ranch because they got undermined at the last legislative session when the legislature failed to support the Energy Bill that would allow for a large scale photovoltaic energy field.

The motion passed unanimously.

AGENDA ITEM #6(b)
2009 NADO Innovation Awards - Mr. Ken Heatherington

Mr. Heatherington presented the 2009 NADO Innovation Award to Acting Chair Denham on behalf of the Council.

Acting Chair Denham presented the 2009 NADO Innovation Award to the Council's first Certified LEED Planner, Mr. Jason Utley.

**AGENDA ITEM #6(c)
Other Regional Issues**

Mr. Limbaugh announced that the SR80/CR27 project has been moved up on FDOT's priorities for construction in FY 2010.

**AGENDA ITEM #7
PUBLIC COMMENTS**

No public comments were made at this time.

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

Mr. Heatherington explained that the reason for moving the January meeting was to accommodate the invited legislative speaker's schedules since they were in committee meetings the two weeks prior.

Commissioner Duffy suggested inviting former Mr. Buck Martinez to the January 28th Council meeting.

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

FDOT - Mr. Limbaugh explained that Congress, The House, had passed a bill that is very similar to the Stimulus Bill which is job related but it will be a much faster pace than the Stimulus package. Twenty-one days after the bill is signed into law the allocations will be distributed to each state and then each state's allocation will have to be under contract within 90 days.

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

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

**AGENDA ITEM #11
COUNCILMEMBERS' COMMENTS**

Ms. Holquist stated that she had concerns with the way the issues with the Babcock Ranch items were handled during the November meeting. She explained that she was contacted by the developer two days prior to the meeting and she asked specifically whether Lee County was in agreement with all of the staff recommendations and she was told that they were and that there wasn't going to be any issues at the meeting. So she was extremely disappointed when that didn't take place and believes that it is the developer's responsibility, and being a developer representative, she feels that it was very poorly handled.

Mr. Hutchinson of staff explained staff's position with Lee County's staff and the applicant.

Ms. Messina explained that when the ARRA funding ends in 2011/2012 there is going to be major budget cuts for the school districts. The Charlotte County School District has already started preparing, there are currently 17,000 students and we are able to maintain 150 employees because of the ARRA funding for this year and next year and when that funding stops, unless there is a replacement somewhere, 150 employees that will have to let go. The District is trying to anticipate that and build a contingency for it; otherwise, there is going to be more unemployment in the local communities from this one issue.

Commissioner Skidmore noted that recently Charlotte County re-visited an issue of tree trimming and logging within its forestry which goes back to 2007. He explained that there were pros and cons on the issue, but his concern has to do with an email sent from a staff member of the RPC on the Council's email account which was taken in context by some community members and Charlotte County staff that what was written within email was the official action of the Council on the issue within Charlotte County. He stated that it is his concern that staff of the Council is using the Council's official email account for other business other than Council business.

Mr. Beever stated that he was the employee who replied to an email that was sent to his Council email account. The email contained a request for technical information and he responded completely accurately to the request for information. He identified that the areas in which the proposal was occurring had valuable natural resources and when you have situations such as red-cockaded woodpeckers, bald eagles, scrub jays, etc. there are different management processes which need to be undertaken and care to be taken during forestry practices and clearing. He contributed to the management plans for most of these sites in his capacity during his prior position with the Florida Game & Fish Commission and Florida Fish & Wildlife Conservation Commission and helped Charlotte County on several occasions to establish these conservation areas in the past. So within the email he identified that when you are doing this type of work you need to coordinate with the Florida Fish & Wildlife Commission and US Fish & Wildlife Service and care needs to take with these resources. Charlotte County staff contacted him and stated that they were concerned that he had provided this information to the request of information and he had discussed the issue with Mr. Andy Stevens with Charlotte County and asked him to take a look at the content of the email and it was discussed that everything was accurate and Mr. Stevens stated that the issues were addressed. He then explained Mr. Stevens directed him to Charlotte County's PowerPoint presentation of the county's position, which he in turn shared out the PowerPoint presentation to all of the people on the email list so they could all see the county's position. He feels that the county's presentation still left out some of the issues related to the listed species, so it is his perception and his understanding that all of the work that he does for the Council that responds for technical information is part of our duty and that we provide technical assistance.

Ms. Donley explained that the Council's policies are currently being updated and this is one area that will be reviewed and revised accordingly.

Commissioner Tom Jones announced that the City of North Port is looking at a State College of Florida to bring in an energy technology zone to the City of North Port in which there will be job training and alternative energy careers.

Councilwoman Heitmann stated that she has found staff to be a vital resource.

Mayor Puletti stated that he applauds the efforts of everyone for the SR80/CR27 interchange but he just wanted to make everyone aware of the other issues that are along SR80 that are being worked through the committee with Commissioner Turner.

Commissioner Thaxton suggested inviting a representative from an energy company and also Dr. Frank Alcock from the University of South Florida, who is a renowned energy expert and whose views are very well balanced to the January meeting.

Acting Chair Denham announced that the Lower West Coast Watersheds Committee has been scheduled to meet the first Thursday of every month at 10:00 a.m. at the SWFRPC's Offices in the 2nd floor meeting room.

**AGENDA ITEM #12
ADJOURN**

The meeting adjourned at 10:30 a.m.



Commissioner Paul Beck, Secretary

The meeting was duly advertised in the December 4, 2009 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 35, Number 48.

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

LAST NAME—FIRST NAME—MIDDLE NAME <i>Mulhere, Robert J.</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: <input type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input checked="" type="checkbox"/> OTHER LOCAL AGENCY <i>RPC</i>
CITY COUNTY <i>Mango, FL 34146</i>	NAME OF POLITICAL SUBDIVISION: <i>STATE OF FLORIDA</i>
DATE ON WHICH VOTE OCCURRED <i>12-17-09</i>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

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.

**REQUEST FOR PLACEMENT ON AGENDA
OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL**

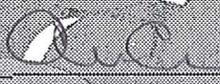
Name: AMBER CROOKS
(Please Print)

Organization (if any): Conservancy of Southwest Florida

Address: 1450 Merritt Way Dr.
Naples, FL 34102

Agenda Item Number: 5b 5b

Amount of Time Requesting: Up to 6 minutes (3 min per item)



Signature

12/17/09

Date