

**MINUTES OF THE
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL
JULY 21, 2011 MEETING**

The meeting of the Southwest Florida Regional Planning Council was held on July 21, 2011 at the Southwest Florida Regional Planning Council - 1st Floor Conference Room at 1926 Victoria Avenue in Fort Myers, Florida. Acting Chair Karson Turner called the meeting to order at 9:01 a.m. Commissioner Butch Jones led an invocation and led the Pledge of Allegiance. Administrative Staff Specialist Nichole Gwinnett conducted the roll call.

MEMBERS PRESENT

Charlotte County: Councilwoman Rachel Keesling, Ms. Andrea Messina, Mr. Michael Grant

Collier County: Commissioner Jim Coletta, Commissioner Donna Fiala, Councilwoman Teresa Heitmann, Mr. Bob Mulhere, Ms. Pat Carroll

Glades County: Commissioner Kenneth "Butch" Jones

Hendry County: Commissioner Karson Turner, Mr. Melvin Karau

Lee County: Councilman Marty McClain for Mayor John Sullivan, Commissioner Brian Bigelow, Councilwoman Martha Simons, Councilman Forrest Banks, Vice Mayor Mick Denham, Commissioner Frank Mann, Councilman Joe Kosinski, Ms. Laura Holquist

Sarasota County: Commissioner Christine Robinson, Commissioner Tom Jones, Commissioner Carolyn Mason, Councilman Kit McKeon, Mr. Felipe Colón, Mr. George Mazzarantani

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

MEMBERS ABSENT

Charlotte County: Commissioner Tricia Duffy, Commissioner Robert Skidmore

Collier County: None

Glades County: Commissioner Paul Beck, Councilwoman Pat Lucas

Hendry County: Commissioner Tristan Chapman, Commissioner Joseph Miller, Commissioner Daniel Akin

Lee County: Mr. Paul Pass

Sarasota County: None

Ex-Officio Membership: Mr. Jon Iglehart - FDEP, Ms. Tammie Nemecek - EDC of Collier County

INTRODUCTIONS

Acting Chair Turner introduced the Council's newest member: Councilman Joe Kosinski from the Town of Fort Myers Beach. He also recognized Mr. Matt Spielman with U.S. Representative Connie Mack's Office and Mr. Mike Brennan with U.S. Senator Marco Rubio's Office.

AGENDA

Acting Chair Turner announced that those individuals who wished to give public comment to fill out the public comment sheet and hand them in and once they are all handed in then public comments will be taken.

Acting Chair Turner stated that he would like a motion to accept the agenda; however, prior to that there needs to be an amendment to the agenda under Agenda Item #4(a). He explained that he would like to take Agenda Item #4(a)6 Executive Committee Report and move it to become Agenda Item #4(a).

Ms. Messina moved and Mr. Mazzarantani seconded to approve the amended agenda. The motion carried unanimously.

AGENDA ITEM #2 MINUTES OF THE JUNE 16, 2011 AND JUNE 30, 2011 MEETINGS

Commissioner Mason moved and Councilman Banks seconded to approve the minutes of the June 16, 2011 and June 30, 2011 meetings. The motion carried unanimously.

AGENDA ITEM #3 CONSENT AGENDA

Councilman Banks moved and Commissioner Mason seconded to approve the consent agenda as presented: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for June 30, 2011 & Grant Activity Status Sheet; Agenda Item #3(c) SWFRPC/SWF LEPC Sponsored Hazardous Materials Awareness Training; and Agenda Item #3(d) Florida Emergency Planning and Community Right-To-Know Act (EPCRA Title III) Contractual Agreement. The motion carried unanimously.

AGENDA ITEM #4(a) (formerly 4(a)6)
Executive Committee Report

Acting Chair Turner gave the Executive Committee Report from its meeting held on the morning of July 21st and explained that the Committee's recommendation was to appoint him as Chair and also to appoint Councilwoman Heitmann as Vice Chair for the remainder of 2011.

Mr. Mazzarantani moved and Commissioner Butch Jones seconded to accept the Committee's recommendation to appoint Commissioner Turner as Chair and Councilwoman Heitmann as Vice Chair of the SWFRPC.

Councilwoman Simons suggested opening it up for other possible nominations before taking official action.

Acting Chair Turner agreed and opened it up to nominations for Chair and Vice Chair. No other nominations were named at this time.

The motion carried unanimously.

Chair Turner noted that the Committee also made a recommendation to appoint Commissioner Tom Jones as Secretary and Mr. Bob Mulhere as Treasurer.

Chair Turner opened it up for any other nominations for both the Secretary and Treasurer positions. No other nominations were made at this time.

Commissioner Coletta moved and Commissioner Mason seconded to accept the Committee's recommendation of appointing Commissioner Tom Jones as the Council's Secretary and Mr. Bob Mulhere as Treasurer. The motion carried unanimously.

Chair Turner congratulated both Mr. Mulhere and Commissioner Tom Jones on their new positions. He then continued with the Council's vote of no confidence on the Council's Executive Director, Mr. Ken Heatherington. He then thanked Mr. Heatherington for being so receptive to all of the past discussions and has been very pleasant to work with throughout the process.

Chair Turner explained that both he and Mr. Heatherington had a discussion and feels that they have come to a common ground regarding his departure. The Executive Committee had decided that it would best if by July 31st that Mr. Heatherington would be out of office and his separation would be final from the Council. Mr. Heatherington agreed to that and he feels comfortable that an agreement was reached on middle ground for the betterment of both the Council and Mr. Heatherington also to move forward with appointing an Interim Executive Director.

Commissioner Mann asked Chair Turner to announce the buyout details for the record.

2. In lieu of 45 days notice of non-renewal required by Section 4. SEVERANCE, of the EMPLOYMENT CONTRACT, the COUNCIL, agrees to pay KEN HEATHERINGTON the amount of fourteen thousand three hundred thirty eight dollars and fifty-six cents (**\$14,338.56**) for the work days that comprise the 45 days from August 1 through Sept.

13, 2011, subject to appropriate and required tax withholding. In no way does this mean that KEN HEATHERINGTON should consider himself employed at the COUNCIL during this period. KEN HEATHERINGTON may use this time to search for another job or pursue other interests. Both parties agree that these funds will be disbursed no later than August 31, 2011.

3. Pursuant to COUNCIL policy and Section 3. COMPENSATION, of the EMPLOYMENT CONTRACT, the COUNCIL agrees to pay KEN HEATHERINGTON eight thousand nine hundred sixty one dollars and sixty cents (**\$8,961.60**) for 160 hours of unused scheduled leave. Both parties agree that these funds will be disbursed no later than August 31, 2011.
4. Pursuant to COUNCIL policy and Section 3. COMPENSATION, of the EMPLOYMENT CONTRACT, the COUNCIL agrees to pay KEN HEATHERINGTON three hundred twenty dollars and fifty cents (**\$320.50**) for one-half of his AICP annual dues for 2011.
5. **SEVERANCE PAY:** In consideration for non-renewal of the EMPLOYMENT CONTRACT by KEN HEATHERINGTON, the COUNCIL agrees to the following SEVERANCE PAY:

Compensation, 20 weeks	\$44,808.00
Unused Unscheduled Leave, 140 hours	\$7,841.40
Health Insurance, 12 months	\$6,978.24
Retirement, 14 months	\$7,021.14
TOTAL SEVERANCE PAY:	\$66,648.78

The total SEVERANCE PAY mutually agreed to by the COUNCIL and KEN HEATHERINGTON is sixty six thousand six hundred forty-eight dollars and seventy-eight cents (**\$66,648.78**).

KEN HEATHERINGTON understands and agrees that the payments made by the COUNCIL described under SEVERANCE PAY represents compensation and that, therefore, the COUNCIL will withhold from the gross amount of this payment all taxes and other appropriate deductions that it would normally withhold from the earnings of KEN HEATHERINGTON, and that he will report the gross amounts of those payments to governmental agencies as earnings of the individual to whom net payment is made as done in the past.

Councilwoman Simons asked if during the meeting between Chair Turner and Mr. Heatherington SB88 was discussed. Legal Counsel Donley explained that since Mr. Heatherington was under contract he is not subject to SB88.

Councilman Banks asked if Mr. Heatherington is eligible to collect unemployment. Legal Counsel Donley explained that unemployment was not addressed within Mr. Heatherington's release agreement. Mr. Heatherington is still going to be meeting with his attorney which will probably be

a clause that will come up and is a clause that is usually used in separation agreements which the employer will not protest an application for unemployment compensation. There is nothing stating that Mr. Heatherington would apply for unemployment compensation, but at this point the agreement doesn't bar him from applying. Her concern about putting a clause in barring him from being able to collect unemployment or stating that the Council would litigate, is that the costs involved might be more than what the Council would be willing to pay. Since one could argue that the manner which this all came about there is a legal argument that Mr. Heatherington's resignation was actually a forced resignation; because if he had not resigned he would have been fired, so he is resigning instead.

Councilman Banks asked how much would it cost for unemployment. Ms. Doyle explained that maximum is \$1,200 per month for 23 weeks and the Council is currently paid up on their premiums.

Commissioner Bigelow explained that Lee County has had recent experience with the departure of its county manager who filed for unemployment. He then stated that it is his personal and professional experience that in this case with Mr. Heatherington, that since he submitted his resignation letter that when you terminate yourself from your employer you forego that benefit. Secondly, the State determines whether or not Mr. Heatherington would be eligible for unemployment.

Chair Turner stated that he believes that the unemployment system is broken. He has had employees steal money from him and he had proved it to the State and they still received unemployment compensation. So he believes that Mr. Heatherington has the right to apply for unemployment if he wishes to do so.

Ms. Holquist moved and Councilman Banks seconded to accept the Committee's recommendation to approve the Separation Agreement for Executive Director, Mr. Kenneth Heatherington. The motion carried unanimously.

Chair Turner stated that the Committee had made a recommendation to appoint Ms. Liz Donley as the Council's Interim Executive Director for the remainder of the calendar year.

Mr. Grant moved and Councilman Banks moved to accept the Committee's recommendation to appoint Ms. Liz Donley as the Council's Interim Executive Director for the remainder of the calendar year.

Chair Turner stated that as the Chair of the Council he is not in favor of bringing an outside person into the Council at this time to be our Interim Executive Director. He feels that with the work that the Executive Committee, FY2012 Budget Committee and Ms. Donley have done over the last few weeks, he feels that the Council is moving forward in a very positive direction.

Councilwoman Simons stated that she feels that there are other candidates and that a process should be established (i.e., ranking process).

Councilwoman Heitmann stated that she appreciates the recommendation; however, she wanted to reiterate the Chair's comments that at this point in time we need to move quickly in order to move forward in order to find a permanent Executive Director.

Mr. Grant clarified that there is a motion on the floor and if there is someone who is opposed to the motion then vote against it. First, let's have a discussion regarding the motion and then move forward.

Commissioner Mann asked if Ms. Donley does become the Council's Interim Executive Director will she also continue to serve as the Council's Legal Counsel. Chair Turner replied actually she would have three titles: SWFRPC Interim Executive Director, SWFRPC Legal Counsel, and CHNEP Deputy Director. Commissioner Mann asked if she would be receiving the same salary. Chair Turner replied no, there would be an increase in her salary. He explained that there have been preliminary discussions.

Commissioner Tom Jones stated he hoped that Ms. Donley would be involved in the search of the new Executive Director unless she was planning on applying for the position. Ms. Donley stated that she was not planning on applying for the position.

Ms. Holquist stated to Chair Turner that she felt that it was important to bring those members who haven't been involved in the meetings over the last couple of weeks on the Council's new direction up-to-date and why the Committee feels it is important to have an Interim Executive Director hired within temporarily so we can get the new direction identified. Also get an idea of what the key competencies should be under the new direction. The Committee is looking at identifying the new direction and moving it forward by the end of the fall. Then identify the key competencies and hire a new Executive Director by the end of December.

Councilman Banks moved and Commissioner Mann seconded to call to question. The motion carried with one opposed.

Mr. Grant moved and Councilman Banks moved to accept the Committee's recommendation to appoint Ms. Liz Donley as the Council's Interim Executive Director for the remainder of the calendar year. The motion passed with three opposed (Commissioner Bigelow, Commissioner Mason and Councilwoman Simons).

Mr. Mulhere asked if there were any members of the public who wished to make a public comment.

Chair Turner recognized Mr. Heatherington for his years of service as the Council's Executive Director.

**AGENDA ITEM #4(a)2
FY2012 Budget Committee**

Chair Turner thanked Vice Mayor Denham for his efforts and leadership in the process. Vice Mayor Denham thanked Chair Turner for his comments and stated that he felt that it was a job

that needed to be done. He said that it has been interesting and hard work, but he has enjoyed it and is anxious to move forward.

Chair Turner stated that he agrees with Vice Mayor Denham that he does want to see it done properly. He then explained that there was a two pronged process, there were issues with the budget and the naming of a new director, also getting past some of the heartache and turbulent times. He emphasized that the Council is amongst turbulent times where we have had the "shot across the bow" on a number of occasions from the legislature, by the reduced in funding. There have been many discussions about DCA and how that dissolution ensued and that the RPCs could be next. This also could possibly be the RPC to step up and justify itself. He referred to the meeting when Representative Aubuchon stated that there was a time in Southwest Florida that the SWFRPC was known. He then said that the talk in Tallahassee that it has changed. Chair Turner stated that he feels that because of the actions which were taken by Mr. Heatherington and the discussions which ensued from his actions, he feels that the Council has had to refocus its efforts and we are going to really look at our existence and getting back to our core mission.

Chair Turner stated that the Committee decided that they wanted to setup a visioning process and search committee.

Vice Mayor Denham stated that at the last Council meeting there was a great concern by many of the Council members on various issues: Council's leadership, credibility, direction, and transparency. So it was decided to put together a small committee to try to correct some of those issues. He then gave an overview of the Committee's challenges. He stated that he felt that there needs to be three committees: Visioning Process, Core Competencies, and Executive Director Search. The Committee felt that it was important to consider these issues and have a discussion at both the September and October Council meetings and try to finalize it by the end of the year. What is also important is to receive complete buy-in from the Council on its future direction and it was felt that there needed to be representation from each of the counties on the committee for the new direction of the Council.

Vice Mayor Denham explained that the Committee has suggested that the Council's current mission be changed in a minor fashion "To work together across neighboring communities to consistently protect and preserve the unique character of our environment, strengthen our economy, and improve our social world for the benefit of future generations." He explained that the Committee felt that it was important for the Council to strengthen its ties with its customers (developers) and partners (cities/counties).

Ms. Holquist stated that under regional visioning, which is the second item listed under "New Direction," relates to the regions throughout the State that already have a regional vision process. Southwest Florida is probably the only region of its size that doesn't currently have one. There is myregion.org in Central Florida, which was started by the East Central RPC and the First Host Vision up in Northeast Florida, and also there is one in the Tampa Region, and many in South Florida. She explained that there was a visioning process started in Southwest Florida several years ago by former Representative Mike Davis, but unfortunately he passed on from cancer and was never able to complete the project. This is something that Southwest Florida is once again way behind the curve throughout the State in regards to creating a regional vision. She explained that her thought is to bring the key competencies into the Council and be able to incubate that in

Southwest Florida and bring together the business community, cities, counties, and educational institutions and pull together a vision of Southwest Florida.

Vice Mayor Denham stated that he feels that the vision process is a fairly lengthy and complex process. He is not sure that it will be completed before the Council is able to complete its new direction and feels that the vision process will continue for several months. Ms. Holquist stated that if the Council believes that is what it feels that it should do then it will be a several year process.

Vice Mayor Denham then moved onto the budget issue and explained that the Committee's challenge was to balance the FY2012 Budget and also what was needed to support the budget. The Committee decided that it needed a balanced budget with a surplus of \$400,000 which was derived from the \$250,000 loss of DCA funding, in addition, to take of the search and replacement of the Executive Director. He explained that it does require some changes in personnel, changes to staff hours, adjustments to pay, and expense reductions in order to accomplish the goal. He doesn't believe that any staff names have been put on the list at this point in time. He then referred to the organizational proposal chart slide.

Commissioner Mann asked Vice Mayor Denham to give a breakdown of the \$400,000. Does it include the search for the new Executive Director and also the new Executive Director's salary? Vice Mayor Denham explained with the exception of the \$250,000 from DCA, it leaves \$150,000 for the search and salary of the new Executive Director.

Commissioner Mann asked what Mr. Heatherington's salary was. Ms. Doyle replied \$116,000. Ms. Donley explained that Mr. Heatherington's salary was \$116,000, plus a car allowance, and also 5% of his salary went into deferred compensation. Commissioner Mann asked what Mr. Heatherington's total compensation package was. Ms. Doyle replied approximately \$130,000. Mr. Mulhere stated that he saw on budget approximately \$140,000.

Commissioner Mann stated that it seems that the funds which are left for the Executive Director search is very generous. Vice Mayor Denham stated that \$150,000 seemed to be an appropriate amount of money to him; however, it may not all be spent.

Chair Turner stated that he would like to have Ms. Donley answer Commissioner Mann's question, because he feels that there are two parts to the question. What is the possible salary for the new Executive Director and how much is appropriated for the search for the new Executive Director. Ms. Donley explained that the FY2011/12 Budget as proposed has a \$400,000 surplus that is anticipating all of the known revenue that is promised to us comes in. There is always a possibility that some of those projects that are 95% certain don't come in. So there is a surplus so staff doesn't have to come back with a major budget amendment. Then the remaining money which Vice Mayor Denham was splitting up as \$250,000 was the funds which needed to be held back because in the past we were possibly receiving \$250,000 from DCA each year. So there was that pot of money that we were able to accumulate in the FY2011/12 Budget and then there is the other pile of money which is approximately \$150,000 which would be available for the new Executive Director and the search. The \$250,000 which was able to be saved, money could be taken out of there and allocated towards the search if needed. We weren't certain on how broad of a search the Council wanted to have. If the Council wanted to keep the search within the State

of Florida or go national it would change the cost of the search. Vice Mayor Denham stated that the search would also be open to internal candidates.

Vice Mayor Denham stated that nothing has been set as far the exact pay for the new Executive Director or for the search. He is hoping that will be discussed within the next few weeks.

Commissioner Mann stated that he doesn't understand the bottom line numbers. If you are using \$140,000 out of the \$400,000, as the anticipated match on the compensation package for the new Executive Director then that leaves \$260,000 which seems more than generous. He believes that it should only cost \$40,000-50,000 to hire a consultant.

Vice Mayor Denham stated that on the revenue side of the budget we have been very conservative. He feels that there was some conservatism on both the revenue and cost.

Commissioner Mann stated that he commends the Committee for identifying the \$400,000 under these circumstances which the Council is currently facing. It is no small challenge and the Committee has met and surpassed it. However, Lee County just recently has gone through the headhunter process and you can find a headhunter for a lot less than what is being proposed. He hopes that whatever process is used it will be as frugal as possible. Chair Turner explained to Commissioner Mann that the goal is to bring it in way under budget.

Councilwoman Simons suggested utilizing the human resources staff member within the Council to help with the search instead of hiring a headhunter. It would be up to the Council to help set the parameters. The City of Bonita Springs just went through the process of hiring a new city manager and it cost the city approximately \$2,000 and received 127 applications.

Chair Turner explained that there already have been potential candidates who already have reached out to us and we are well aware of the climate of the economy. He then explained that the Executive Committee decided to set up an Executive Director Search Committee which will be discussed at the September meeting; however, he will ask for volunteers today to participate on the search committee and there needs to be representatives from the entire Southwest Florida Region. He stated that he wants Commissioner Butch Jones on the Search Committee.

Councilwoman Simons stated that it is wonderful to have a large surplus, but it is also affecting the people's lives and we are taking away from the employees and to her the most important thing is people. So she would rather see the employee's supported and find a way to do it fiscally, responsibly and conservatively.

Vice Mayor Denham stated that he doesn't believe that at any time did the Committee suggest hiring a consultant or headhunter to conduct a search. It was not indicated how it would be conducted. It will be conducted in a very conservative and frugal way. He believes that the new Executive Director salary with benefits will be in the range of \$120,000. If the Council feels that the surplus amount of \$400,000 is too much then it can be changed, but after studying it carefully he feels that amount is appropriate at this time.

Councilman Banks stated that he knows that the Committee worked hard because he sat in on one of the meetings and he supports everything that the Committee has done and proposes. He then stated that he agrees with the addition of the economy statement within the Council's mission

statement. Since he represents a city, the city's goals are to get the property values up and they are not going to go up unless the economy improves.

Vice Mayor Denham stated that he feels that it is appropriate to have the Council approve the Committee's proposal:

- Process
- Mission
- Key Competences
- FY2011/12 Budget
- Organizational Proposal

Vice Mayor Denham explained that it is the Council's plan and it is very important that we get a buy-in from everyone.

Mr. Karau asked that with the reduction of employees and hours it is assumed that the Council would still be able to meet the Council's new mission and goals. Chair Turner stated that it assumes that the Council will go through some growth and the Council will develop the new vision, plan, and mission as we move forward. We feel that it can be met with the proposed staff reductions. Mr. Karau then stated that the question is if there is too much money set aside then we need to keep some of the staff, but what are they going to do if we already have enough staff to accomplish our objectives. Are we talking about zero based budgeting, because that is the only way to go with the income and when you do that you can meet all of your mission and goals? So what is being discussed is keeping some of the income, but what is going to be done with it.

Chair Turner explained that movement of staff, the surplus of \$400,000, and the discussions which occurred it is felt that with the proposed reductions we can meet the charge of this Council, but we have to do some reductions.

Vice Mayor Denham stated that he believes that it did have an element of zero based budgeting when it was prepared. The Committee looked at the tasks and the buildup of tasks and staff from actually ground zero, so actually it was an element of zero based budgeting. He then stated that per the Council's direction, the budget will be reviewed very carefully every month by the Budget and Finance Committee and by the Council. If there is a situation where there is more revenue coming in or not enough revenue coming in, then appropriate actions will be taken immediately as soon as we feel comfortable or uncomfortable with the results as they move forward over the course of next year.

Commissioner Butch Jones stated that he participated on the Search Committee when the Council hired Mr. Heatherington and the figure was \$60,000 for a headhunter. He feels that there are a lot of qualified people within the region and he would be apprehensive to spend that amount of money considering the current budget constraints the Council is currently facing. He then suggested promoting within because it is a morale booster. He also asked that if the Council did hire within or locally would it be enough to save those four jobs that are being proposed to be laid off.

Vice Mayor Denham stated that he is very supportative of taking a hard look to see if there are any eligible candidates within the staff that has the appropriate skill set. He then said that in discussions with Ms. Donley, that as revenue and financial positions improve that we would consider taking on those staff that were on a short work week or have been laid off and bring them back on.

Mr. Grant stated that he appreciates all of the work that the Committee had done over the last couple of weeks.

Mr. Grant moved and Councilman Banks seconded to approve the FY2011/12 SWFRPC Budget as proposed by the FY2012 Budget Committee.

Commissioner Bigelow asked for the names of the employees who are to be laid off and how were those staff members selected. Vice Mayor Denham explained that the Committee looked at the tasks which were necessary to the Council to undertake and the staff which were assigned to those tasks. He doesn't have the names or specific tasks, but we tried to do it in that fashion. If we didn't have certain tasks in consequence to certain funding changes, i.e., DCA, they were the head counts that were under consideration.

Ms. Donley explained that positions of responsibility were aligned revenue streams. Commissioner Bigelow asked who the planners that are being laid off. Ms. Donley replied that there are no names at this point. Commissioner Bigelow stated that leaves him of great concern because the former Executive Director made some decisions which the Council was not very happy with and now this gives the Interim Executive Director total liberty of making those decisions and in the end the Council may not be happy with.

Vice Mayor Denham explained to Commissioner Bigelow that the Committee has been looking very carefully over Ms. Donley's shoulders and she has not had the complete authority to make the changes that were proposed within the budget. They were overseen by the FY2012 Budget Committee and himself personally.

Commissioner Bigelow suggested that any staff layoffs be brought to the full Council for confirmation.

Chair Turner stated that he is personally opposed to that.

Commissioner Mason asked Chair Turner if such an action is part of the full Council's role, because she feels that it is not appropriate. Chair Turner replied no. He said that it could go before the Council's subcommittees.

Mr. Mulhere stated that in regards to the previous decisions that the former Executive Director had made had more to do with the process of making those decisions. The unilateral decision to terminate certain staff members without respect to the core mission of the Council and without any alternatives presented to the Council to that respect as it related to the budget shortfall specifically. So, there is not any question that it is not the Council's role to make the human resources decisions here as it relates to the elimination of positions. We are to set policy which we have done by setting the budget.

Commissioner Bigelow stated that he is concerned giving Ms. Donley "three hats," especially Interim Executive Director and Legal Counsel. He then suggested having the Interim Executive Director's actions, especially personnel, vetted with the Executive Committee. Secondly, for the Executive Director search that the Interim Executive Director be insulated from that search. He suggested having the HR Operations Manager answer directly to the Executive Director Search Committee Chair instead of the Interim Executive Director.

Vice Mayor Denham explained that the Council had put together a committee to carry out the tasks which have been presented. The Committee has been focusing on what the headcount should be and who was in the headcount. It is not appropriate for us to immediately start throwing names around until the correct human resource process has been gone through. Secondly, in regards to the search for a new Executive Director, it will be carried out by a Search Committee proposed and approved by the Council. So the Interim Executive Director will be part of it, but she will not control it. The Executive Committee will watch very carefully the funds that are being spent on the search, how it is being conducted, and how the search is taking place. He also stated that the HR Operations Manager will be involved in the process.

Mr. Mulhere asked if there is any public comment at this time.

Mr. Grant called to question. The motion passed with one opposed.

Mr. Grant moved and Councilman Banks seconded to approve the FY2011/12 SWFRPC Budget as proposed by the FY2012 Budget Committee. The motion carried with two opposed.

AGENDA ITEM #4(a)1 Budget & Finance Committee

Chair Turner gave the report and stated that the Committee's recommendation was to withdraw an amount not to exceed \$36,000 from the Council's reserves in order to balance the current budget. However, the new amount is \$10,600.

Mr. Mulhere moved and Mr. Grant seconded to approve the withdrawal of the amount not to exceed \$10,600 from the Council's reserves.

Ms. Messina asked what the balance will be in the reserves after the \$10,600 is withdrawn. Ms. Yell replied \$634,000.

Councilman Banks clarified that keeps all staff in place until October 1st. Both Chair Turner and Ms. Donley replied that is correct. Ms. Donley noted that staff continues to work diligently on looking for new funding streams for the FY2012 budget.

The motion carried unanimously.

AGENDA ITEM #4(a)3
Estero Bay Agency on Bay Management

Mr. James Beever of staff gave the Committee's report.

Commissioner Bigelow asked Mr. Beever as he referred to the Council's proposed new Mission which states "To work together across neighboring communities to consistently protect and preserve the unique character of our environment, strengthen our economy, and improve our social world for the benefit of future generations." He asked Mr. Beever that given his knowledge on Estero Bay and its water and habitat quality, which he believes to be in serious decline. Could he support amending the Council's proposed mission to include "restore." "To work together across neighboring communities to consistently protect ~~and~~ preserve and restore the unique character of our"recognizing that Estero Bay's quality and future is in serious decline.

Mr. Beever stated that there are certainly restoration needs in our region because we have a decline in water quality and for habitat, not just in Estero Bay but also in many of our natural areas.

Chair Turner explained to Commissioner Bigelow that the Council's Mission statement is a "living" document and we are going to have plenty of vetting on all of the tasks. Commissioner Bigelow then referred to the Council's New Direction bullet points, third bullet states "Review of the MPO and NEP roles in relation to the RPC." He stated that he would hope that the ABM would also be included in that statement and in the review, so we could figure out how we might get the Council and future visioning more inline because there is a desperate need to restore Estero Bay.

Councilwoman Simons explained that ecotourism is a huge money maker these days and growth industry.

AGENDA ITEM #4(a)4
Legislative Affairs Committee

Mr. David Hutchinson of staff gave the Committee's report. He stated that the thing to do is look ahead to the next legislative session and if any member would like to participate on the Council's Legislative Committee, staff will begin to work on the Council's draft legislative priorities beginning in September. The Council failed on one of its priorities, "Support sufficient funding for both DCA and RPCs." But succeeded in the other key priorities of the Council which remained in place throughout the legislative session.

Chair Turner stated that funding trickled down for Everglades Restoration. As most of you know that there was a \$200 million purchase which had occurred, this was directly correlating to Everglades Restoration. Then the Corps released some C-44 funding which handles releases out of the St. Lucie estuary which ends up "filling up the bowl" of Lake Okeechobee. Also, REACH-2 on Herbert Hoover Dike is scheduled to begin construction along with the culvert project.

AGENDA ITEM #4(a)5
Regional Watersheds Committee

Mr. James Beaver of staff gave the Committee's report. He explained that the Committee decided to meet quarterly.

Chair Turner stated that he would like to see the Committee discuss the issue of the levels that Lake Okeechobee is being required to be kept at (low, middle, and high bands) and how it affects everyone. It is a big economic driver.

AGENDA ITEM #5
DIRECTOR'S COMMENTS

Ms. Donley stated that she would like to set aside her Director's Comments at this time. She then noted that there were two people who handed in Public Comment forms. Chair Turner agreed and then recognized Ms. Diana McGee from U.S. Senator Bill Nelson's Office and Ms. Leah Valenti from U.S. Congressman Tom Rooney's Office.

PUBLIC COMMENTS

Chair Turner called upon Mr. Donald Scott, Director of the Lee County MPO.

Mr. Don Scott gave a PowerPoint presentation on the Lee County MPO and its budget process.

Chair Turner stated that the final Public Comment was from Mr. Wayne Daltry. It was noted at this time that Mr. Daltry was not present at the time.

AGENDA ITEM #6
STATE AGENCIES COMMENTS/REPORTS

SFWMD - Mr. Flood stated that rainy season has begun; however, the aquifers are still low. Lake Okeechobee has just reached the 10 foot mark last week and the SFWMD is still asking people to conserve.

FDOT - Mr. Limbaugh announced that the bid was accepted for the interchange at SR80/SR27 and hopefully construction will begin within the next few months. FDOT is working with Hendry County to do a significant groundbreaking at the interchange. On the bad news side, FDOT District Secretary, Stan Cann will be leaving FDOT to go to the private sector and his last day will July 28th.

Commissioner Bigelow asked Mr. Limbaugh if FDOT has hired a new contractor for the Six Mile Cypress/Metro Parkway project. Mr. Limbaugh is still working to get a contractor on board.

AGENDA ITEM #7
COUNCIL ATTORNEY'S COMMENTS

Counsel Donley explained that there is a new opportunity available with a new law school within the region to bring in an interim law student in to help with the responsibilities and also give someone local some real time experience. She said that she will research the opportunity further before the next Council meeting and bring the information back to the Council.

Commissioner Bigelow asked Counsel Donley in regards to public comment where the Council made some decisions, set aside some sensitive feelings that he may have, because he wasn't able to express his concern on the Council's decision for the Interim Executive Director, to that extent some public comment was in-off. But the Council didn't call for public comment at all until the very end after every decision was made. So his question is, recognizing that the Council spends local, state and federal funds and we did not take public comment before taking actions without it being in emergency mode, are we alright legally. Counsel Donley replied that she will have to research that question and will have to get back to him with the answer. She explained that the Council did take public comment during the meeting, before the meeting was adjourned and the Council conducted its business as the set forth and she understands that there were some changes to agenda which made it confusing. Our normal procedure is, if you have public comment you fill out a public comment form, which we received two at today's meeting. It is unfortunate that the one person who submitted a public comment form did not stay through this point of the meeting.

Commissioner Bigelow stated that he would like to put something on the record that he was late to the meeting and he apologizes. The agenda was being amended as he was walking in, but he doesn't believe that the agenda was amended as such that public comments was removed, so we publicly advertise an agenda for this meeting, amended it, didn't remove public comment, but didn't hold public comment until the end, and to the point one of the two people which asked to be heard left before they were asked to share their comment. He said that he would like to submit that we don't know who in the audience would like to share their thoughts prior to the Council making a decision.

Chair Turner acknowledged and apologized for the error and also stated that he wouldn't deter any member of the public from making a comment. He also noted that Mr. Mulhere did ask for public comment at two different times during the meeting and no one stood up.

Mr. Mulhere recommended that when there are items of interest some people don't know that they have to fill out forms in order to speak. The problem is that you don't want to have someone speak when the item has had action already taken. You want to have their input as part of the deliberations. So in the future, you may want to as a matter of record ask if there is any public comment on any items that may have some interest. Chair Turner agreed with Mr. Mulhere's recommendation.

Commissioner Bigelow stated that if there are legal problems and our Counsel didn't advise us on it and now she is also the Interim Executive Director, he is now a little troubled. More so than he was previously, if that proves to be the case, because the question was called to hold the vote on the Interim Executive Director and he was not allowed to discuss what he wanted to discuss. Public comment was cut off in several ways.

Commissioner Mason stated that a simple solution would be to announce at the beginning of the meeting the Council's procedure for public comment. Chair Turner asked the Council if he vetted over the entire Public Comment process. The Council stated that they heard Chair Turner announce for anyone who wishes to make a public comment to fill out a public comment form. Commissioner Tom Jones stated that he had assumed that at the time that the Council arrived at the items for public comment there wasn't any forms turned in. He didn't know what the timeline was, but he did recall the Chair call for the public comment forms to be filled out and turned in.

Ms. Donley explained that there were two public comments forms turned in. One was for the Budget and Finance which was for the FY2010/2011 Budget and the second one was from Mr. Don Scott in regards to the Lee County MPO.

Commissioner Bigelow stated that if someone had a comment form and if they were going to submit it when they were called upon to make public comment as the Council opens it up typically for public comment, he doesn't believe that you have to fill a form out.

Chair Turner stated that the Council will not deny anyone the right to speak.

Mr. Flood suggested renumbering the agenda and start with the numbering of "Invocation" instead of "Agenda."

AGENDA ITEM #8 COUNCIL MEMBERS' COMMENTS

Chair Turner stated that if any member is interested in serving on the Executive Director Search Committee send your information to Ms. Nichole Gwinnett.

Chair Turner stated that if any member is interested in serving on the Regional Visioning Committee send your information to Ms. Nichole Gwinnett.

Councilwoman Heitmann announced that Mr. Mazzarantani has been appointed as the new FRCA Policy Board Vice Chair. She then explained that with the decrease in funds for the RPCs the FRCA Policy Board made a decision to add \$20,000 to the FRCA dues for more intergovernmental support. It was a divided vote, but the resolution did pass.

Commissioner Coletta stated that he had met with both the Governor and Senate President and brought up the issue of having the RPCs move forward and they both looked at him with blank looks on their faces. He then stated that he would be happy to assist with Council's legislative update.

Mr. Grant apologized for calling to question so often but he just tries to keep the process moving. He didn't mean to offend anyone by doing that or not giving someone the opportunity to speak. But he feels that it is important to stress our business and stay on point and he will continue to do that.

Commissioner Tom Jones thanked the members for giving him the opportunity to serve as their Secretary.

Councilman McClain thanked the Council for the opportunity to sit in for Mayor Sullivan.

Councilman Simons stated that she would like to participate on the Legislative Committee.

Councilman Banks thanked the FY2012 Budget Committee for their efforts and stated that he had encouraged three members of the public to come to the past couple of meetings and speak and this month he encouraged them not to attend because he felt that everything was under control and in good shape until October 1st. He then told them to save their comments until then when the Council starts working on next year's budget.

Commissioner Robinson thanked everyone for their efforts and feels that a good result was reached the correct way, which was probably the most important way to be reached. It was important to her to identify some of the Council's weaknesses, which were done and we can have our eyes wide open going forward.

Chair Turner thanked Commissioner Robinson for being so passionate in regards to her remarks in the manner which she presented everything at the last meeting. Those types of things have to be vetted.

Ms. Messina stated that she is looking forward to the next several months and watching the new strategic direction come in and help define this organization. The Council has struggled with where we fit in and how we work together.

Commissioner Butch Jones stated to Chair Turner that he had really "stepped in it", but he has really done well as Chair for the last two months and he is proud of him.

Commissioner Mason stated that she agrees with Commissioner Robinson and that she feels that it is only part of our growing pains. She is grateful in the manner in which the Council conducted itself, even when we didn't agree with one another and that is the model that we should hold up and live by as we go forward.

**AGENDA ITEM #10
ADJOURN**

The meeting adjourned at 10:58 a.m.



Commissioner Tom Jones, Secretary

The meeting was duly advertised in the July 15, 2011 issue of the FLORIDA ADMINISTRATIVE WEEKLY, Volume 37, Number 28.

REQUEST FOR PLACEMENT ON AGENDA
OF THE

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

Name:

Ridge Lawler

(Please Print)

Organization (if any):

Address:

*1580 Olmeda
St Myers FL 33901*

Agenda Item Number:

Budget

Amount of Time Requesting:

Signature

[Signature]

Date

7/21/11

Nikki's Computer: Council/FormLetters/Request Form.wpd

*RECEIVED
10:43 AM
AFTER
Public
Comment
Closed*

**REQUEST FOR PLACEMENT ON AGENDA
OF THE**

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

Name:

Wayne Darity

(Please Print)

Organization (if any):

Self

Address:

Agenda Item Number:

*Budget Adjustment 2010-11
budget*

Amount of Time Requesting:

1 MIN

Signature

Wayne Darity

Date

REQUEST FOR PLACEMENT ON AGENDA
OF THE

SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL

Name:

Donald Scott

(Please Print)

Organization (if any):

LAC MPO

Address:

Here

Agenda Item Number:

4a

Amount of Time Requesting:

3 minutes

Signature

Donald Scott

Date

7/21/11