



MINUTES OF THE ESTERO BAY AGENCY ON BAY MANAGEMENT

**Held on December 12, 2011**

The regular meeting of the Estero Bay Agency on Bay Management was held on December 12, 2011 at the Southwest Florida Regional Planning Council offices in Fort Myers, Florida.

NAME	ORGANIZATION
Jim Beever	SWFRPC
Lisa Beever	CHNEP
Karen Bickford	Lee County
Brian Bigelow	Lee County BOCC
Nora Demers	RGMC
Wayne Daltry	Audubon of Southwest Florida
Win Everham	FGCU
Brad Cornell	Audubon of Florida
Harry Gottlieb	FMBCA
Keith Laakkonen	Town of Fort Myers Beach
Sarah Larson	FGCU Students
Beverly MacNellis	Estero CCL
Laura Miller	LWV of Lee County
Marisa Polgar for Jennifer Hecker	Conservancy of SWF
Pete Quasius	Snook Foundation
Erin Rasnake	FDEP – South
Heather Stafford	Estero Bay Aquatic Preserve
Lynda Thompson	Lee County
Carl Veaux	RGMC, Sierra Club

**Agenda Item #1 – Call to Order**

Dr. Beever called the meeting to order at 9:40 a.m.

**Agenda Item #2 – Attendance**

Attendance is taken through the sign-in sheet. Dr. Beever asked for self introductions of the members which followed.

**Agenda Item #3 – Agenda Additions, Deletions or Corrections**

Win Everham set a card for Ellen Peterson in memoriam. An item on the EBABM budget was

added at 7.5. Change on last line for Mr. Arnold on page 3 middle page. Changed probably. Page 6: FGCU did not say the road was needed for safety but would probably say that. Page 8: Change Hall Road to Haul Road. Agenda Item 13: Environmental Breakfast was sponsored by Audubon of South Florida with other cosponsors.

**Agenda Item #4 – Minutes of August 8, 2011**

Keith, and Nora had corrections to the spelling in the list of attendees and the minutes

**MOTION TO APPROVE THE MINUTES OF OCTOBER 16, 2011 AS AMENDED BY PETE QUASIUS AND SECONDED BY WAYNE DALTRY. MOTION CARRIED UNANIMOUSLY.**

**Agenda Item #5 -EBABM Draft Work Plan**

Draft work plan was presented along with the 2011 work plan. Items completed were removed and 10 year plan was added. Significant diverse discussion occurred on the draft work plan and the EBABM in general. Win discussed steps to achieve item 9, Commissioner Bigelow discussed the combination of items, self review, and advocacy and outreach. Heather discussed workshop on Conservation 20/20. The need for TMDLs was discussed by Keith. Brad discussed advocacy and outreach by members. Wayne discussed history of the EBABM. The successful advocacy by the EBABM and history of the EBABM and participation by members was recounted by Jim. Heather discussed outreach to public. Harry discussed diminished participation in EBABM by development community and outreach to them. Jim discussed history relating to reduced participation. Discussion of vacancies followed.

Subsequently the original 2011 item #1 was retained as is. The work plan was amended significantly to include list of water quality activities.

**MOTION BY HEATHER STAFFORD AND SECONDED BY ERIN RASNAKE TO ADOPT THE AMENDED WORK PLAN**

**FREINDLY AMENDMENT FROM WAYNE DALTRY #8 Review and participate as appropriate on other current issues affecting Estero Bay. Accepted by motion makers.**

**FRIENDLY AMENDMENT FROM BRAD CORNELL #10 Assure effective dissemination of recommendations and findings to decision makers and the public. Accepted by motion makers.**

**ACCEPTED UNANIMOUSLY.**

**Agenda Item #6 – Election of Officers for 2012**

Discussion ensued. Discussion on how the minutes are taken and completed followed. Budget discussion was moved to this point as 5.5.

**Agenda Item #6.5 – Budget**

Currently the EBABM is over budget \$490.93. The sending out of letters to Lee County, FGCU, FDEP and SFWMD and lack of response was discussed. Copies of the letters were provided to those who would discuss them with the entities. EBABM was on budget through October but ran over budget with Cela Tega. Commissioner Bigelow, Win Everham, and Heather Stafford discussed follow-up with entities. Total annual budget is \$10,000. Last year FGCU, Lee County, and the SFWMD made contributions.

Discussions of other funding approaches and the history of funding ideas followed. Wayne suggested the airport provide funding. Win discussed student internship for notes and minutes, but would suggest they be paid. Discussions on how payment would be made occurred. Discussion of the tasks and role of the secretary was provided by Sara. More discussion on budget and funding occurred.

Discussion returned to Election of Officers for 2012. Commissioner Bigelow volunteered mailing for EBABM. Further discussion on the budget followed.

**MOTION BY COMMISSIONER BIGELOW NOMINATING LISA BEEVER AS CHAIR, NORA DEMERS AS VICE CHAIR AND KAREN BICKFORD AS TENTATIVE SECRETARY AND SECONDED BY DR. EVERHAM**

**PASSED UNANIMOUSLY.**

**Agenda Item #7 – Cela Tega Subcommittee**

Report from Nora Demers on the Cela Tega meeting. Discussion on funding sources and uses followed. Contributions from Happahatchee, RGMA, EcoAction was discussed. CHNEP funding was not used. There was acclamation from all the EBABM for Nora and her work on the Cela Tega, including the outstanding web site.

**MOTION BY DR EVERHAM AND SECONDED BY ERIN RASNAKE FOR DR. EVERHAM TO WRITE A LETTER TO THE PRESIDENT OF FGCU RECOGNIZING HER CONTRIBUTIONS**

**PASSED UNANIMOUSLY.**

Discussion on the dissemination of the information of the Cela Tega followed.

The cycle was discussed of one year of rest, then the State of the Bay Update, symposium on the State of the Bay in 2015, then the next Cela Tega in 2016. Could have a new Cela Tega before then if a topic is identified.

Dr. Weiskoff and Jim will be working on a paper on the economic values of the 20/20 lands in Lee County.

### **Agenda Item #8 – Emerging Issues**

Pete reported on the request from Spring Creek homeowners to put in navigational markers in Spring Creek.

Jim Beaver provided a report on the proposed development rights swap of Alico West and the Miromar Lakes South so as to now have a town center at the Miromar Lakes South with estates developed at Alico West.

Wayne Daltry discussed the placement of dorms on the research center industrial site donated to FGCU said the road was needed for safety issues.

Jim Beaver asked if the EBABM would like a presentation on the new Jet Blue Red Sox Stadium

Pete discussed the Restore Act to get fines from BP to use on science in the Gulf sponsored by Sen. Nelson and Sen. Rubio. He recommended letters of support.

Jim presented HB 421 preemption of local government fertilizer rules allowing professional applicators to ignore local government ordinances. The SWFRPC has drafted a letter in opposition to this. CHNEP has a bulleted list of reasons to not support HB 421. Mr. Veaux suggested contacting Matt Caldwell

Karen discussed Septic Tank Regulation SB 820 Onsite Sewage Treatment and Disposal Systems (OSTDS) that would eliminate statewide septic tank inspections.

### **Agenda Item #9 – Announcements**

Erin announced the Combined NE Interagency and FDEP Tidal Caloosahatchee Basin Management Action Plan Meetings, December 14, 2011 Please use the Meeting Place No. 6982 and the press the link below to view a presentation. Instructions for those of you that have never used our Web Meeting Place, please be sure to read the attached and take the Browser Test. If you have any questions, please call Palma Vacarr at 561-682-2220. Thank you.

**To join the meeting:**

**Meeting URL:**

<http://meetingplace.sfwmd.gov/m/381157354ED393EAB1000FC0F707E88DL1>

Dial in from your phone:

**Cisco Meeting Place 6700**

**Local S.F.W.M.D. 561-682-6700**

**Nationwide Toll Free 866-433-6299**

**Meeting ID: 6982**

First-time users should run the [Browser Test](#) to verify they can participate in a web meeting.

and the EVERGLADES WEST COAST BMAP MEETING, Thursday, December 15, 2011, 9:30 A.M. – 11:30 A.M., South Florida Water Management District 2301 McGregor Boulevard, Ft. Myers, Florida 33901

Gulf Restoration Decision Webinar

Fort Myers Water Front Development Plan Presentation at the Fort Myers Yacht Club, January 4, 2012, 7PM

Ellen Peterson has been nominated to the Fort Myers News Press as a person who has changed the area in the last 25 years.

Governor Scott has recommended 40 million for Everglades Restoration and 15 million for Florida Forever.

**Agenda Item #10 – Public Comments**

None.

**Agenda Item #11 and 12 – Next Meeting, Time, Place, Agenda Items**

EBABM: Monday, January 9, 2012

- 1) South entrance road
- 2) Power Line Road
- 3) Extension of Alico Road out to Sunshine Boulevard in Lehigh Acres

Cela Tega/IAS: Monday, January 23, 2012 at SFWMD

**Agenda Item #13: Adjournment**

Meeting adjourned at 11:55 p.m.

**ESTERO BAY AGENCY ON BAY MANAGEMENT (EBABM)  
PROPOSED PROJECTS AND ACTIVITIES 2012  
Adopted by EBABM on December 12, 2011**

- 1. Develop strategies and recommend actions to reduce impairment to Estero Bay waters. This will include comment on important initiatives including Surface Water Improvement Management (SWIM), development of TMDLs, establishment of Minimum Flows and Levels, Pollution Load Reduction Goals (PRGs), Basin Management Action Plans (BMAPs), Numeric Nutrient Criteria (NNC), and refinement of the Southwest Florida Special Basin Rule.**
- 2. Seek continuing funding support from EBABM partners and external grant sources for special projects, event, and staff support of the EBABM.**
- 3. Coordinate activities with the Charlotte Harbor National Estuary Program (CHNEP), the Estero Bay Nutrient Management Partnership, and the Southwest Florida Watershed Council.**
- 4. Provide Comments and Report to the Southwest Florida Regional Planning Council (SWFRPC) and others on relevant Items of Review such as; Comprehensive Plan Amendments, Developments of Regional Impact, update of the Strategic Regional Policy Plan, Intergovernmental Coordination and Review projects, etc.**
- 5. Collect and maintain a data library for Estero Bay at the offices of the SWFRPC and contribute to the CHNEP water atlas.**
- 6. Encourage conservation of critical habitat in the Estero Bay Watershed through land acquisition and other tools, to facilitate a re-examination of the Master Mitigation Plan and to include seeking funding for a workshop on the future of the Lee County's "Conservation 20/20" Land Acquisition Program.**
- 7. Review and comment to regulatory agencies on issues affecting Estero Bay and its watershed.**
- 8. Review and participate as appropriate on other current issues affecting Estero Bay.**
- 9. Develop and begin implementation of a 10-year work plan for the improvement of the Estero Bay Watershed**
- 10. Assure effective dissemination recommendations and findings to decision makers and the public.**

EBABM	2011
NAME OF ORGANIZATION	Currently active
Audubon of Florida	x
Audubon of Southwest Florida	x
Charlotte Harbor NEP	x
City of Bonita Springs	
City of Fort Myers	
Conservancy of SWF	x
CREW Land & Water Trust	x
David W. Ceilley, Individual	x
Estero Bay Aquatic Preserve FDEP	x
Estero CCL	x
FDEP - South District	x
FDOT/SWAO, District One	x
FGCU - College of Arts & Sciences	x
FGCU Students	x
Friends of Six Mile Slough Preserve	
Ft. Myers Beach Civic Association	x
Issack Walton League	
Johnson Engineering, Inc.	x
League of Women Voters	x
Lee County Div of Natural Resources	x
Lee County BOCC	x
Lee County Division of County Lands	x
Lee County Planning Division	x
Lee County Port Authority	x
Mariner Properties Development, Inc.	
RGMC	x
Sierra Club	x
Snook Foundation	x
South Florida WMD	x
SW Florida Marine Trades Assoc.	
SWFRPC	x
The Bonita Bay Group	
The Conservancy of SW Florida	x
Town of Fort Myers Beach	x
U.S. Fish and Wildlife Service	
USEPA - South Florida Office	
WCI	

DRAFT: January 9, 2012

Mr.

Re: Request for appointment of members to the Estero Bay Agency on Bay Management

Dear Mr.:

As you may be aware, the Estero Bay Agency on Bay Management (ABM) was established in accordance with the settlement agreement for the permitting of Florida Gulf Coast University, following completion of the Arnold Committee study process. The ABM membership consists of, but is not limited to, delegates from the following agencies and organizations: local Chambers of Commerce, Citizens and Civic Associations, Lee County, SFWMD, FDEP, FFWCC, FGCU, SWFRPC, Port Authority, commercial and recreational fishing interests, environmental and conservation organizations, the Responsible Growth Management Coalition, Cities of Bonita Springs, Fort Myers Beach, Sanibel, Fort Myers, scientists, affected property owners, Economic Development Council, and the land development community. The ABM is a non-regulatory advisory body whose directive is to make recommendations for the management of Estero Bay and its watershed.

In order for the ABM to function properly it is important that the member organizations are represented at the monthly meetings and the list of entities that constitute a quorum includes active membership. Our records indicate that you and/or your organization have not been attending the EBABM recently.

We would like you to appoint a member and alternate to the EBABM. Please let us know of your willingness and ability to participate in the EBABM, or your alternate decision, by contacting me by telephone or e-mail at the contacts indicated below. Also please feel free to contact me if you have any questions or need additional information.

Thank you for your time and consideration. We look forward to hearing from you soon.

**Sincerely,**

**ESTERO BAY AGENCY ON BAY MANAGEMENT**

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website [www.swfrpc.org](http://www.swfrpc.org)

DRAFT Based on SWFRPC letter.

January 9, 2012  
Tallahassee, Florida 32399

**Re: Opposition to State fertilizer rule preemption of local ordinances by HB 421, and its companion SB 604**

Dear:

In 2009, a statewide Fertilizer Rule was adopted that provides a baseline for the regulation of residential use of fertilizer with a primary objective of reducing the water quality impacts associated with fertilizer. Unfortunately, this rule is not stringent enough. The rule does not do enough to protect water quality in South Florida, particularly in Aquatic Preserves, National Estuaries, coastal estuarine waters and natural wetlands and waterbodies that have naturally low levels of nutrients.

The Estero Bay Agency On Bay Management (EBABM) has been made aware of a proposal in HB 421 to preempt local governments' authority to protect these valuable resources and the thousands of jobs associated with the tourism, fisheries, and development industries associated with good water quality and clean beaches and environment. This proposal would raise barriers to local governments' ability to adopt fertilizer rules stricter than the State's standard are being considered. This proposal adds another level of government into a local process and creates additional financial burdens on the essential implementation of the Impaired Waters Rule. Also, the proposed change does not appear to grandfather prior adopted local government fertilizer rules.

Within the Estero Bay Watershed, local governments consider the regulation of residential fertilizer to be one of the tools available to them to meet water quality standards in water bodies that have Total Maximum Daily Loads (TMDLs) imposed. Fertilizer regulations should acknowledge the impacts on water quality from excess nutrients due to the misapplication of fertilizer. Florida Department of Environmental Protection (FDEP) and the South Florida Water Management District (SFWMD) are excellent sources for solid scientific information on these issues. Moreover, any improvements to the existing fertilizer regulations should be consistent with the Southwest Florida Regional Planning Council Fertilizer Resolution, which has gone through an extensive scientific vetting process by the Florida Department of Environmental Protection, the Florida Department of Agriculture and Consumer Services, the University of Florida and the Institute of Food and Agricultural Services Cooperative Extension, and many local and statewide representatives of fertilizer businesses

([http://www.swfrpc.org/content/LWCW/Final\\_Fertilizer\\_Resolution\\_031507.pdf](http://www.swfrpc.org/content/LWCW/Final_Fertilizer_Resolution_031507.pdf))

For the State of Florida to even consider preempting local communities from establishing their own standards borders on infringement of local home rule. One statewide standard for fertilizer control will not work because every locality has its own unique water quality needs. Florida's own TMDL rules develop stormwater permitting

requirements that are very specific, focusing area by area, watershed by watershed, stream by stream and estuary by estuary to determine precise regulatory requirements to bring water quality levels, including nutrients, to an acceptable standard. The cost to **prevent** fertilizer pollution is far less than the funds that will be required to clean up our waters **after** the fact.

The Estero Bay Agency On Bay Management has unanimously voted to oppose any amendments to the existing fertilizer regulations that would pre-empt local governments' oversight and regulation of fertilizer and thus impair the implementation of adopted local government fertilizer regulations and ordinances.

**The Estero Bay Agency On Bay Management recommends against HB 421, and its companion SB 604, which preempts local governments from implementing its adopted ordinances restricting the use of nitrogen and phosphorus fertilizers in the urban, suburban, and commercial setting.**

We live in a State surrounded by and dependent on water, where pristine beaches and estuaries are among our greatest assets. The health and economy of southwest Florida depends upon the quality of the waters where our citizens fish, recreate and live. Now is the time to address water quality as our priority, not to weaken the protections we have undertaken. Our environment, tourism, economy and our very way of life are at stake.

We are looking to you for the leadership required to protect and support fertilizer regulations that improve, not impair, water quality and truly protect Florida.

Sincerely,

Chair, Estero Bay Agency On Bay Management

Cc: Legislative Delegation

, DEP Director