

**Minutes of  
SWFRPC Legislative Affairs Committee Meeting  
March 1, 2011 @ 1:00 pm**

Members Attended

Commissioner Karson Turner, Hendry County BOCC (Chair)  
Councilwoman Teresa Heitmann, City of Naples  
Mr. Michael Grant, Charlotte County Governor Appointee

Guests

Florida Representative Gary Aubuchon  
Paige Anne Biagi, Chief Legislative Aide to Representative Gary Aubuchon  
Rana Brown, Ronald L. Book, P.A.

Staff

Ken Heatherington, Executive Director  
Dave Hutchinson, Planning Director  
Nichole Gwinnett, Sr. Administrative Assistant

The meeting was called to order at 1:00 p.m. and introductions were made.

Representative Aubuchon requested that staff begin the meeting by reviewing the agenda as presented.

Mr. Heatherington began by reviewing the legislative packet as presented.

Chair Turner explained a common theme has come up recently at the Council meetings is the level of uncertainty that everyone has with regards to DCA and the funding that will be continuing for those programs at the state level and obviously how that funnels down to the regional planning councils (RPCs). As you are well aware with your relationship with Representative Grimsley, even though she represents both Hendry County and Glades Counties, we simply don't have a large voice at the table in Tallahassee. We feel that many times though through the Council's efforts that we are able to get our message across and also by working with the RPC's staff just from a planning and zoning standpoint. Both Glades and Hendry Counties are just so fiscally constrained that they don't have the staff like the other counties, so they look toward the Council for that extra support and feel that the Council is of the utmost importance to the smaller counties to continue their efforts.

Mr. Heatherington discussed the Department of Management Services (DMS) who is currently under scrutiny from both the Governor's Office and Legislature. He explained that the Council has been working on a contract with DMS which has been placed on hold until after the legislative session.

Representative Aubuchon explained that the when it comes to DMS the broader concern comes with the lack of consistency in capital projects. Even within Southwest Florida, various agencies have taken that to different levels. Such as buildings that have been built with taxpayer dollars that are much too extravagant. There doesn't seem to be any consistency applied, whether it is the cost per square foot for construction, leasing space, or furnishing space or whether it is how many square

feet per employee of space. This is where the legislature is having some difficulty with DMS, that coupled with the fact that DMS doesn't know what they don't even know and it started a couple of years ago with the legislature asking for a list of state owned properties and they provide it.

Mr. Heatherington briefly reviewed the climate prosperity project and EDD. He also discussed the pre-emption of the local fertilizer ordinances.

Representative Aubuchon referred to the Council's February agenda packet and noted that in accordance to the fertilizer ordinance matrix there were 14 individual ordinances, one best management practice and seven more potential ordinances. He noted that he has been on both sides of the Statewide Fertilizer Ordinance argument and he believes part of the challenge that we face and Southwest Florida is one of the leaders in this. Early on, either this Council or individuals on this Council drew a line in the sand and said no statewide fertilizer ordinance. The legislature had a number of prior year bills that came before the legislature that created statewide fertilizer ordinances with local opt out provisions, provided that there was science based on the provision, so it was not politics, but science. But it was continually fought to the point where now although this fertilizer ordinance matrix might be successful from a local government standpoint; he doesn't believe that it is successful from the private vendor standpoint of who has to apply fertilizer and also have an understanding of all these different ordinances, products and time requirements.

Representative Aubuchon stated that one of the things that he is concerned about is that as a RPC, what it looks like from a State perspective is a lack of a regional plan. The plan appeared to be let every jurisdiction within our region do what they want to do and he feels that it is extraordinarily dangerous. Because now you have a new Governor who says that we want a streamlined and simplified plan for everyone and there will be no opting out provision. One of the things that he hopes to take away from today's meeting is when we do planning within the region. The whole point of the Council is to think about the regional plan and also think about it on a broader perspective rather than simply to appease the individual components of the region.

Councilwoman Heitmann, who was a member of the Council's Lower West Coast Watersheds Implementation Committee, which was the committee that didn't want the statewide fertilizer ordinance stated that she feels that this is the reason that the regional planning councils are far more important than the State telling a region what to do; because we come together at these meetings and we had a subcommittee that studied it with staff and the private sector. She feels that the region did work together by pulling the various cities and counties together on this issue. No city or county likes to have a blanket ordinance forced upon them, because it doesn't work well. Every jurisdiction is different in its own way.

Representative Aubuchon explained that "one size doesn't fit all", but there was a Fertilizer Task Force that was formed which suggested three zones and maybe that wasn't enough. But 67 counties and 215 cities which equals to 480 doesn't fit either. A regional approach would have been better, but a regional approach divided into 22 sub-regions is not a better approach, maybe from the viewpoint of the government. It is not a better outcome for the people that work in that industry and for the residents to understand and how to apply.

Councilwoman Heitmann said that she sees Representative Aubuchon's point that the committee stopped the negotiations and didn't have the local input, because the City of Naples had to face it and ended up rescinding their ordinance. There was a group of homeowners who stated that their lake was not a stormwater pond and it doesn't flow to another water body that it could impair. However, the lake does in fact affect the whole city and now we don't have that ordinance any longer. She then said that if there was to be a Statewide Fertilizer Ordinance and it said that it

couldn't be in lakes, but only in stormwater then the local jurisdictions are still facing the issue that State doesn't know how those waters flow or how the stormwater inlets flow which is a great concern.

Representative Aubuchon stated that the way he feels for anyone to win on this issue with the new Administration is to fight for how you can adopt for a more stringent policy rather than fight the Statewide Fertilizer Ordinance.

Commissioner Turner stated that a way to make that fight is to allow "data to drive the bus." He explained that the 10 parts per billion is a mandate that Hendry County is trying to meet on a daily basis and it is putting some people out of business. But the data that they arrived to get at that level (10 ppb) seems to be incorrect.

Mr. Hutchinson explained that the Council adopted a position to oppose pre-emption rather than oppose a Statewide ordinance, but it does need to be science based.

Representative Aubuchon noted this is where the argument breaks down because a few years ago there was an ability to enforce more stringent local code based on science. He then explained that he is suggesting that if there is a statewide ordinance that doesn't have some sort of authority to impose itself on the State then you really don't have a Statewide ordinance, you only have a Statewide ordinance applied to areas that haven't adopted local ordinances. When in fact, he feels that we should stop arguing about a Statewide ordinance and start focusing on how we would allow the local governments to adopt a more stringent one.

Councilwoman Heitmann asked Representative Aubuchon who the members of the committee should be contacting in Tallahassee to help with their efforts. Ms. Biagi noted that HB457 sponsored by Representative Ingram and co-sponsored by Representative Nelson and it moved through committee on February 22<sup>nd</sup> with one amendment. The amendment removed the grandfather clause for counties or local government that had adopted a local ordinance prior to January 1, 2009 would make those null and void. Representative Aubuchon stated that as regional planning councils on a statewide issue is best way. To effectively change is to go directly to those who are sponsoring and co-sponsoring the bill and work with them and to have some reason and opt out provisions.

Mr. Heatherington reviewed the Local Emergency Planning Committee and also addressed the proposed issue of raiding trust funds.

Representative Aubuchon explained that it is a different element from what the governor's budget has proposed and what the legislature has done in the last several years. There is a distinction between sweeping a trust fund and eliminating a trust fund. He then explained what he feels what should be done with all of the trust funds. He feels that as much as nobody likes to sweep the trust funds, but when you are in the economic times that we are currently facing, priorities change from when trust funds were first created and they vary from trust fund to trust fund (i.e., affordable housing trust fund). On a case-by-case basis and annual appropriation rating will re-direct trust funds to a different purpose. What is fundamentally different from what Governor Scott is doing is that he is eliminating the fund and it will never come back and the funds will all go to general revenue.

Ms. Brown stated that one of the things that she found of concern was the redistribution of the funds would be prioritized from legislature to legislature and not necessarily dedicated towards the original purpose of collecting the money, even though the money would still be collected for the

original purpose. Ms. Biagi stated that is correct and there is a lot of groups standing up and saying that the program and statute was created for that specific purpose, but if the funds are no longer going to that purpose then they will fight to remove the fee or assessment/tax on the professional industry which funds the program. Mr. Grant explained that many trust funds go for recertification of professionals, medical staff, etc.

Councilwoman Heitmann explained that the Council is what has provided her with the liaison, support, research and teambuilding from this region which has enabled her to become a very good Councilwoman. It is because of the education from the Southwest Florida Regional Planning Council. She then asked Representative Aubuchon to protect the RPCs funding because they are vital to the State of Florida.

Representative Aubuchon stated that one of the things that he would like to see the RPCs grow into is to not just focus on the local governments within their region, but to include to a greater extent the residents and business community. Getting community to buy-in on what that vision is so that the community wants to support the RPC, rather than the State simply funding the Council, so that the Council supports itself. One of the discussions that the Council should have is how to become more relevant to our communities, so that our communities know what the Council is all about.

Mr. Heatherington noted that he had three points to make:

First, DCA questioned what the RPCs have done as far as local government comprehensive plan reviews and DRIs.

Second, the SWFRPC does have a vision and it is called "People, Prosperity and Preservation - working together for a better tomorrow." The visioning effort has been placed on hold for numerous of reasons, but mainly due to the lack of funding.

Third, most of our revenue is contract related which means that the contract is specific to that one function, so if there is going to be regional visioning it needs to be funded.

Mr. Heatherington stated that the Council had created a regional vision website <http://www.swflregionalvision.com/> along with the Council's website <http://www.swfrpc.org/> which have Twitter and Facebook pages.

Representative Aubuchon asked for Mr. Grant's input on what he thinks about the Council.

Mr. Grant explained that being from the private sector he doesn't have the same experience, so it is a little different perspective and he is actually still trying to figure it all out. Staff has been very helpful.

Commissioner Turner explained that being a member of the Southwest Florida Regional Planning Council has turned out to be a great relationship and Hendry County is now at the table. He asked Representative Aubuchon to support the RPCs.

Representative Aubuchon stated to the members to keep their voice loud and consistent for the next 60 days.

The meeting adjourned at 2:00 p.m.