

**MINUTES OF THE  
SOUTHWEST FLORIDA REGIONAL PLANNING COUNCIL  
MAY 15, 2008**

The regular meeting of the **Southwest Florida Regional Planning Council** was held on **May 15, 2008** at the offices of the Southwest Florida Regional Planning Council at 1926 Victoria Avenue in Fort Myers, Florida. Due to the absence of Chairman Messina, the meeting was called to order at **9:00 am** by **Vice Chairman Jim Humphrey**. **Commissioner Kenneth Jones** led the Prayer and the Pledge of Allegiance. Administrative Services Specialist Nichole Gwinnett conducted the roll call.

**MEMBERS PRESENT**

**Charlotte County:** Commissioner Adam Cummings, Commissioner Tom Moore, Mr. Alan LeBeau

**Collier County:** Commissioner Jim Coletta, Councilman Charles Kiester, Councilwoman Teresa Heitmann, Ms. Laura Holquist, Ms. Patricia Carroll

**Glades County:** Commissioner Kenneth “Butch” Jones, Commissioner Paul Beck, Dr. Edward Elkowitz

**Hendry County:** Mayor Paul Puletti, Mr. Melvin Karau

**Lee County:** Commissioner Bob Janes, Commissioner Brian Bigelow, Councilman Tom Babcock, Mayor Mick Denham, Mayor Jim Humphrey, Mayor Eric Feichthaler

**Sarasota County:** Commissioner Jim Blucher, Mr. David Farley, Mr. George Mazzarantani

**Ex-Officio Members:** Mr. Johnny Limbaugh - FDOT, Mr. Jon Iglehart - FDEP, Ms. Dianne Davies - SWFWMD, Mr. Phil Flood - SFWMD, Ms. Janet Watermeier - Watermeier Consulting & Property Services

**MEMBERS ABSENT**

**Charlotte County:** Councilmember Marilyn Smith-Mooney, Ms. Andrea Messina

**Collier County:** Commissioner Frank Halas

**Glades County:** Councilman Michael Brantley

**Hendry County:** Commissioner Janet Taylor, Commissioner Bill Maddox, Mayor Mali Chamness

**Lee County:** None

**Sarasota County:** Commissioner Shannon Staub, Commissioner Paul Mercier, Councilman Ernie Zavodnyik

**Ex-Officio Membership:** None

### **DAVID Y. BURR DEDICATION**

Vice Chairman Humphrey gave a few opening comments and then Commissioner Butch Jones led a prayer.

Vice Chairman Humphrey requested that Ms. Heidi Burr Brennan, daughter of David Burr, and Ms. Derek Burr, wife of David Burr, remove the veil from the plaque in order to officially dedicate the building in Mr. Burr's honor. Mr. Heatherington thanked both Ms. Brennan and Ms. Burr for being able to attend.

At this time, Commissioner Coletta had arrived and Vice Chairman Humphrey requested that he say a few words in Mr. Burr's honor. Commissioner Coletta stated that it was always an honor working with Mr. Burr and considered him a mentor.

Mr. Heatherington noted that Mr. Wayne Daltry had arrived and requested that he say a few words in Mr. Burr's honor. Mr. Daltry stated that both he and Mr. Burr started working together in 1975 and when he recommended Mr. Burr for the Executive Director position, he knew the Council would be left in very capable hands.

Vice Chairman Humphrey requested that everyone return to the conference room in order to call the May 15, 2008 Council meeting to order. Due to the lack of a quorum at this time, it was requested that Agenda Item #6(b) be the first item for discussion.

### **AGENDA ITEM #6(b) Legislative Update - Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

Mayor Denham gave an update on the Fertilizer Bill which failed in the legislature. He also explained that since the pre-emption from the Fertilizer Bill was not allowed, the extension of the Healthy Beach Program suffered the consequence. He explained that he will continue to fight for the Healthy Beach Program.

Ms. Holquist arrived at 9:10 am, at which time a quorum was met.

### **AGENDA ITEM #2 MINUTES OF APRIL 17, 2008**

Commissioner Blucher moved and Dr. Elkowitz seconded to approve the minutes of April 17, 2008. The motion carried unanimously.

**AGENDA ITEM #3  
CONSENT AGENDA**

Commissioner Coletta moved and Commissioner Blucher seconded to approve the consent agenda: Agenda Item #3(a) Intergovernmental Coordination and Review; Agenda Item #3(b) Financial Statement for April 30, 2008; Agenda Item #3(c) Selection of a Community Transportation Coordinator for the Glades-Hendry Joint Service Area; Agenda Item #3(d) Premier Airport Park - Preapplication Questionnaire Checklist; Agenda Item #3(e) North Port Gardens DRI - 2<sup>nd</sup> Sufficiency Response Extension Request; Agenda Item #3(f) Collier County Comprehensive Plan Amendments (DCA 08-1); and Agenda Item #3(g) Approval of the FY 2008/09 Transportation Disadvantaged Planning Grant Application. The motion carried unanimously.

**AGENDA ITEM #1  
AGENDA**

Mr. Heatherington noted the following distributed handouts:

- Agenda Item #4 - South LaBelle Village DRI Staff Assessment Revisions
- Agenda Item #5(d) - Glades County Comp Plan Amendments (DCA 08-1) Handouts
- Walk-on Item #5(e) - Harborview Substantial Deviation Request for Sufficiency Response Extension

**AGENDA ITEM #4  
SOUTH LABELLE VILLAGE DRI – STAFF ASSESSMENT – Mr. Jason Utley**

Mr. Utley of staff gave a PowerPoint presentation on the South LaBelle Village DRI Staff Assessment.

Dr. Elkowitz stated that Mr. Utley's presentation of the South LaBelle Village DRI was one of the best presentations that he has seen. He then referred to page 6, Item 5, Sections (h) and (i) and asked why gas stations, repair shops, and cleaners were eliminated when they use hazardous materials. Mr. Gibbons of staff explained that those types of facilities fall under FDEP's Small Quantity Hazardous Waste (SQG) Program.

Dr. Elkowitz stated that it was true also for medical waste and waste from restaurants, so why are those being singled out and not incorporating the facilities. Mr. Gibbons explained that it wasn't staff's intent to alleviate those particular facilities; staff recognizes under FDEP's legislation it would be captured with respect to the health related medical facilities, obviously that comes under the state health department regulation requirements and typically those are addressed under their regulations. Staff typically reviews chemical facilities under the Emergency Planning Community Right To Know Act (EPCRA).

Dr. Elkowitz suggested that staff incorporate Mr. Gibbons' comments into the report so that gas stations, repair shops, chemicals, etc. are covered.

Mayor Puletti stated that since the City of LaBelle is the jurisdictional body of the project, that he would be very cautious that the Council not over-ride the City of LaBelle's ability to approve or disapprove such uses.

Ms. Neale Montgomery, legal counsel for the applicant, explained that the best way to address the concerns would be to incorporate a statement within the report and future reports stating that it "will be subject to all applicable regional, state, and federal regulations as they may be amended." Dr. Elkowitz agreed with the statement.

Mr. Shane Parker, Hendry County Engineer, explained that several comments were made to RPC staff and since those comments were made, the applicant's consultant has answered two of the three to the county's satisfaction (Comments 1 - Cost Estimates and 3 - Helms Road). The other issue was the use of impact fees on state roads.

**Mayor Puletti moved and Mr. Mazzarantani seconded to recommend conditional approval of the South LaBelle DRI to be further conditioned on a finding of consistency with the local government comprehensive plan by the City of LaBelle City Commissioners.**

Councilman Kiester asked if both Glades and Lee County staffs were given the chance to review the project. Mr. Utley replied yes. Councilman Kiester asked if either of their county staffs had any significant concerns. Mr. Utley replied that their concerns were addressed within the sufficiency comments.

Commissioner Bigelow referred to page ii and asked about the DRI ADA being found insufficient. Mr. Utley explained that the insufficient designation indicates that staff still had additional questions and the applicant chose not to answer those questions through another sufficiency round and instead had decided to address the concerns through the staff assessment prior to the issuance of the development order.

Commissioner Bigelow stated that he doesn't believe that the project is a proper form of growth management and is a major concern of urban sprawl, so he can not support the motion.

Mayor Humphrey stated that the since the property is within the city limits of the City of LaBelle, and is within an urbanized area, it wouldn't be considered urban sprawl.

**The motion carried with one opposed.**

#### **AGENDA ITEM #5(a)**

#### **Memorandum of Understanding Between the RPCs the Comprise the FRCA regarding the Provision of Technical Assistance - Mr. Ken Heatherington**

Ms. Liz Donley reviewed the item as presented.

Mayor Denham asked what kind of an effect it has on the Council. Mr. Heatherington explained that it really doesn't have any effect on the Council; it was to let other agencies and departments know how the RPCs work together.

**Commissioner Janes moved and Dr. Elkowitz seconded to authorize the Chairman to sign the Memorandum of Understanding. The motion carried unanimously.**

**AGENDA ITEM #5(b)**

**Appointing a Council Representative to the Estero Bay Agency for Bay Management (ABM) - Mr. Jim Beaver**

Mr. Beaver reviewed the item as presented.

Commissioner Bigelow asked how many members are currently on the ABM. Mr. Beaver replied that there are currently 27 members and each of them represented various interests and entities. One member, Ms. Ellen Peterson is an appointee for life as a party of the settlement agreement; others represent local governments (Lee County, City of Bonita Springs, Town of Fort Myers Beach, and City of Fort Myers), private developers, environmental consultants, etc.

Councilman Tom Babcock stated that he would volunteer to serve on the ABM as the Council's representative.

Ms. Laura Holquist stated that she would volunteer to serve on the ABM as the Council's alternate.

**Commissioner Janes moved and Mayor Denham seconded to appoint Councilman Babcock as the Council's representative to the ABM and Ms. Holquist as the alternate. The motion carried unanimously.**

**AGENDA ITEM #5(c)**

**2008 July Retreat - Mr. Ken Heatherington**

Mr. Heatherington reviewed the item as presented.

In addition to the six members (Ms. Andrea Messina, Mr. George Mazzarantani, Ms. Janet Watermeier, Commissioner Jim Coletta, Mr. Alan LeBeau, and Ms. Laura Holquist) that had volunteered earlier, the following members volunteered to participate on the Retreat Committee:

- Commissioner Adam Cummings
- Commissioner Jim Blucher
- Councilman Chuck Kiester
- Mr. Johnny Limbaugh
- Mr. Jon Iglehart
- Ms. Dianne Davies

**Commissioner Janes moved and Commissioner Beck seconded to appoint the volunteers as noted to the 2008 Retreat Committee. The motion carried unanimously.**

**AGENDA ITEM #5(d)**  
**Glades County Comprehensive Plan Amendments (DCA 08-1) - Mr. David Crawford**

Mr. Crawford reviewed the item as presented in the agenda packet and distributed handouts.

Ms. Holquist stated that it was her understanding that DCA has not been supportive of comp plan amendments if they know that it is ahead of a DRI. Mr. Crawford explained that staff usually requested that from developers when they come in with a DRI, but staff would prefer to see the comp plan amendment with the DRI so that a more educated assessment can be made.

**Commissioner Jones moved and Mr. LeBeau seconded to approve staff comments and authorize staff to forward comments to the Department of Community Affairs and Glades County.**

Mr. Crawford reviewed the next project (American Prime II) within the item which consisted of 624 units and included a marina. He explained that the project was one unit under the DRI threshold of 625 units.

Mr. Matthew Amster, Law Firm of Bercow, Randell, and Fernandez from Miami representing American Prime II, LLC, and the owner of the subject property and the applicant of the land use amendment, gave an overview of the subject property and project which will consist of single-family homes. He explained that there are concerns with staff's Conditions 1, 4 and 5.

Mayor Denham stated that there is a need for additional water storage in the event of a major storm event which causes that area to flood and if there was that additional storage then there would be an advantage. Mr. Amster explained that there are other options for storage of water.

Mr. Amster noted that he will be in Tallahassee at DCA to discuss the project next week, which DCA would have had already received staff's report.

Vice Chairman Humphrey stated that it may be the most appropriate conveyance that the Council agrees to continue this issue, set a time certain at the next meeting, have the applicant relay that message to DCA at their meeting next week, and then DCA can withhold their response.

Mayor Denham stated that he felt that the Council needed more time to review and discuss the issue before moving forward.

Mr. LeBeau suggested having two separate motions, one motion which covers Sundance Farms, River Grove and Muse Village and another for American Prime II.

**Commissioner Jones retracted his motion.**

Mr. Mazzarantani suggested that the Council notify DCA that the comments that they had received from staff had not been approved by the Council on the American Prime II property. Mr. Crawford explained that it was stated in the cover letter to DCA that the item was going before Council and that if additional comments/recommendations were made by the Council, staff would forward those to DCA.

Vice Chairman Humphrey suggested having one motion combined where Sundance Farms, River Grove and Muse Village is approved and forward staff's comments to Glades County and DCA and then in regards to American Prime II property, notify DCA that the Council will be reviewing and discussing the project at its June meeting.

Mr. Amster explained that there are statutory guidelines which DCA needs to adhere to, which means that they are going to move forward with their Objections, Recommendations and Comments (ORC) Report based on what has already been submitted. If the Council continues the item until its June meeting, then DCA would use what was submitted by staff and then the Council would miss the opportunity to provide input.

Vice Chairman Humphrey stated that it was his understanding that the applicant has the option to request a 30-day extension.

Councilman Kiester asked if it would be inappropriate to recommend to Glades County that when this project comes before their board that they coordinate with Council staff. Vice Chairman Humphrey replied no, it would not be inappropriate.

Mr. Flood stated that the SFWMD has many concerns with the project and asked if there was a mechanism to make the project a DRI so it would come back before the Council and the agencies so they would be able to review the project and have their concerns addressed. Mr. Heatherington explained that staff can recommend to DCA that the project be treated as a DRI.

**Mr. Mazzarantani moved and Commissioner Janes seconded to approve staff's comments for Sundance Farms, River Grove and Muse Village and authorize staff to forward comments to the Department of Community Affairs and Glades County and have the applicant request an extension from DCA for the American Prime II property in order to allow the Council to review and discuss the item at its June meeting. The motion carried unanimously.**

#### **WALK-ON AGENDA ITEM #5(e)**

**Harborview DRI Substantial Deviation Request for Sufficiency Response Extension – Mr. Jason Utley**

Mr. Utley reviewed the item as presented.

**Mayor Denham moved and Commissioner Janes seconded to approve the extension. The motion carried unanimously.**

#### **AGENDA ITEM #6(a)**

**Lower West Coast Watersheds Subcommittee Report – Mayor Mick Denham**

Mayor Denham reviewed the item as presented.

**Mayor Denham moved and Ms. Holquist seconded to approve SWFRPC Resolution #2008-02 Managed Care Model Guidance for Onsite Wastewater Systems Planning, Treatment and Management.**

Mr. Beaver reviewed the resolution as presented.

Councilman Kiester referred to page 7, Section 3 and noted that the word “Assessment” was misspelled. He then stated that the resolution is recommending package plants for small developments in rural areas and since package plants are notoriously known to have problems in terms of not being maintained, etc., is this really the way that we should be recommending that our communities go. Mr. Beaver explained that the resolution is setup not to recommend package plants for small communities in rural systems, but to identify the option for unified onsite wastewater treatment systems for small areas.

**The motion carried unanimously.**

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

Mr. Heatherington reviewed the item as presented.

**AGENDA ITEM #7  
PUBLIC COMMENTS**

No public comments were made at this time.

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

Mr. Heatherington had no comments at this time.

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

SFWMD - Mr. Flood announced that the Governing Board meeting is scheduled to be held in Fort Myers at Edison Community College on June 11 and 12. He also stated that there is a major disconnect between comprehensive planning and water supply planning (SFWMD’s Capital Improvement Plan) and he encourages the local government staff to work closely with the SFWMD’s Water Use Planner to help with the planning efforts.

SWFWMD - Ms. Davies stated that she agrees with Mr. Flood’s comments in regards to the disconnect between the comprehensive planning process and the District’s water supply planning mechanism (SWFWMD’s 10 Year Water Supply Plan). There are utilities stating that they will provide water service for DRIs, and if you look in the application, they are sighting treatment plant capacity as opposed to water usage and consumptive use permit capacity for permitting quantities. The WMDs need the utilities to include those permitting quantities in the applications, as well as the treatment plant capacities, which are permitted by FDEP. Half the time, the utilities don’t have

the capacity to provide the development and then they look to the WMD to help fund that capacity.

Mr. Heatherington stated that the disconnect in the comprehensive planning process is recognized throughout, and one of the issues that died on the floor in the legislature is a request from FRCA to extend that time period so the individual RPCs would have time to put together a subcommittee to discuss issues that are under the DRI threshold that have multi-regional impacts.

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

Counsel Donley had no comments at this time.

**AGENDA ITEM #11  
COUNCILMEMBERS' COMMENTS**

Commissioner Blucher stated that he agrees that the comprehensive amendment process is broken and also that the Council is the body to try and fix the process. He also expressed his concern with the urban sprawl issue and doesn't believe that there can be urban sprawl within a city.

Commissioner Janes requested from Counsel Donley an analysis on the east coast rock mining law suit to be provided at the June meeting.

Commissioner Cummings stated that it was noted by Charlotte County staff that there is sufficient applications for mines in Charlotte County to provide fill for stem wall homes for approximately 1.4 million homes. He also expressed his concern with the linkage between water and growth management (Comprehensive Plan Amendment Process).

Vice Chairman Humphrey suggested creating a new subcommittee to discuss and review the issue of water and growth management (Comprehensive Plan Amendment Process) from a regional perspective, and he suggested that Commissioner Cummings be the Chairman of the subcommittee. Commissioner Cummings stated that he would be very much interested in participating in such a committee, however, as a representative of the Board of Charlotte County Commissioners he doesn't know, if ethically, he would be allowed to move forward with such an issue. Vice Chairman Humphrey then suggested that Commissioner Cummings discuss the issue with Counsel Donley, but that the Charlotte County Board of County Commissioners appointed him to the Council, to be a member of the Council, and express his opinion to the Council.

Commissioner Coletta stated that he is looking forward to the Council's Retreat in July.

Ms. Carroll announced that as the Governor's Appointee for the School Boards, at the last legislative session, the Senate pushed through a different funding structure where they will take 0.25 mils out of the school boards capital, which the school boards generally levy up to 2 mils to fund their capital program. The legislature will now take 0.25 mils of that capital money and instead of allowing the districts to increase their operating millage to 0.25 to equal out; they are taking that 0.25 and putting it into the general Florida Education Finance Program to supplement

the operating budgets through the state education. Ms. Carroll stated it bothered that there are three counties within the state that are donor counties, and technically our state legislature will be taking property taxes and funding from three or four different counties to fund education in other counties.

Vice Chairman Humphrey asked if the Council should create a resolution in opposition. Ms. Carroll replied that August would be appropriate for the Council to take action because at that point, the school boards will be working on legislative agendas to move forward and this should come back as a legislative platform.

Commissioner Coletta invited Ms. Carroll to participate on the Council's Legislative Subcommittee. Ms. Carroll agreed to participate.

Ms. Holquist asked Ms. Carroll which were the three donor counties. Ms. Carroll replied Monroe, Collier and Palm Beach Counties.

Councilman Kiester suggested appointing a standing committee to address the comprehensive plan amendments in order to avoid having another situation like the current Glades County issue. The committee could be called on a monthly basis or meet two weeks prior to the regular Council meeting with the authority to review, comment and approve staff's report to DCA. Then bring the full report with staff and the committee's comments to the Council for review and approval.

Vice Chairman Humphrey agreed with Councilman Kiester's suggestion and recommended that there be representatives from each county. Councilman Kiester suggested having three county representatives, three city representatives and three governor appointees.

Mr. Farley suggested holding a conference call and those that are interested in that particular project can participate.

Ms. Davies agreed with Mr. Farley's suggestion because large-scale comprehensive plan amendments usually only occur twice a year for each local government.

Commissioner Jones stated that Glades County appreciates the Council's support and Glades County BOCC will stay on top of the issues in regards to American Prime II.

Ms. Watermeier stated that due to the rising fuel costs, she would like to see on the Retreat's agenda how to communicate with new technology (web/video conferencing). Mr. Heatherington stated that it has been discussed in the past and the problem has been funding.

Commissioner Cummings stated that the school board issues need to be addressed as a priority.

**AGENDA ITEM #12  
ADJOURN**

The meeting adjourned at 11:50 am.

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Commissioner Paul Beck, Secretary

The meeting was duly advertised in the May 2, 2008 issue of the **FLORIDA ADMINISTRATIVE WEEKLY**, Volume 34, Number 18.