



**Wekiva River Basin
Commission**

Wekiva River Basin Commission Meeting Minutes
REVISED
July 11, 2008
1:30 pm

East Central Florida Regional Planning Council
631 North Wymore Road, Suite 100, Maitland, FL 32751

1. Call to Order and General Business

The meeting was called to order by Senator Lee Constantine at 1:35 p.m. Ms. Ruth Little called the roll and announced that a quorum voting members was present. The following members were in attendance:

Senator Lee Constantine, Chair – Senator, Florida Senate District 22
Councilman James Yatsuk – City of Mt. Dora
Mr. Charles Lee – Senior Vice-President, Florida Audubon Society
Commissioner Teresa Jacobs – Orange County Commissioner
Commissioner Brenda Carey – Seminole County Commissioner
Commissioner Steve Wolfram – City of Altamonte Springs Commissioner
Mayor John Land – Mayor, City of Apopka
Commissioner Linda Stewart – Lake County Commissioner
Mr. James Stansbury – Florida Department of Community Affairs
Mr. Mike Snyder – Executive Directory, Orlando/Orange County Expressway Authority
Mr. Gary W. Johnson - Executive Director, Seminole County Expressway Authority
Mr. Jody Lee for Mr. Charles Aller – Director, Office of Agricultural Water Policy, Florida Department of Agriculture and Consumer Services
Mr. Gerald Briggs – Chief Bureau, Onsite Sewage Programs, Florida Department of Health
Ms. Noranne Downs - District Secretary, Florida Department of Transportation
Mr. Dennis David – Regional Director, Florida Fish and Wildlife Conservation
Ms. Vivian Garfein – District Director, Florida Department of Environmental Protection
Mr. Casey Fitzgerald for Mr. Kirby Green – Executive Director, St. Johns River Water Management District
Mr. Harold Barley – Executive Director, Metroplan Orlando

The Minutes of the February 27, 2008 meeting were presented for approval. On a Motion made by Commissioner Carey and Seconded by Commissioner Jacobs, the Minutes were unanimously approved.

2. Current Agency Activities and Legislative Report

Florida Department of Agriculture and Consumer Services (FDACS) – Mr. Jody Lee

Mr. Jody Lee reported that the Cow and Calf Best Practices Manual (BPM) is in the final stages and the Sod Manual has been adopted.

Mr. Jody Lee reported that the model fertilizer ordinance has not been approved by the Legislature. There have been efforts to include provisions allowing local governments to adopt more stringent rules if they can show cause or if more stringent rules will improve water quality. Senator Constantine stated that this Commission opposed the legislation at the February meeting because of the preemptive aspects of the bill. He expressed his support of a model ordinance that local governments can turn to for guidance, but restated his commitment to oppose any legislation that would preempt local governments from requiring higher standards.

Florida Fish and Wildlife Conservation Commission – Mr. Dennis David

Mr. David reported that since last meeting, staff has looked at the endangered species assessments in the development of the parkway. There are six or seven listed species that occur along the alignment area. The Florida Fish and Wildlife Conservation Commission is satisfied with the design and will continue to work with the FDOT through the design phase.

St. Johns River Water Management District – Mr. Casey Fitzgerald

Mr. Fitzgerald reported that the SJRWMD has finished their Pollutant Load Reduction Goal and the FDEP has adopted total maximum daily loads (TMDLs) and is preparing to work on a basin management action plan (BMAP). Additionally, the District is in rulemaking to implement more conservation measures for general consumptive use permits for users below 100 thousand gallons per day (100,000 gpd). Another rulemaking process underway is to link the process of consumptive use permits and environmental resource (surface water) permits. This allows that stormwater generated on site can be used to offset other water consumption. The rulemaking notice will be published in January of 2009 and will not only begin with the Wekiva area, but district wide adoption is under consideration. Commissioner Jacobs brought up the advantage of reusing storm water because the nutrients already present would reduce the need for fertilizers. Mr. Fitzgerald agreed that it is a good opportunity with the right education.

Mr. Charles Lee commented that the Audubon Society has reviewed the general water conservation rule and is concerned that the rule is not aggressive enough. The Audubon Society would like to see soil moisture sensors required on all automated systems. Moisture sensors more effectively limit excessive watering and maximize conservation. There was additional conversation about water reuse and conservation efforts.

Florida Department of Transportation – Ms. Noranne Downs

Ms. Downs reported that the FDOT is continuing to work with the project consultant who will present details. The FDOT is working with the state historical preservation office to resolve some items, and with the Expressway Authority on a master funding plan. The schedule for public meetings will probably begin in September of this year.

Orlando Orange County Expressway Authority - Mike Snyder

Mr. Snyder introduced Mr. Mark Callahan of consultant CH2M Hill to present an update on the environmental study, recent activities, road alignment alternatives, trail connectivity and next steps.

Mr. Callahan briefly reviewed the current recommended road alignments and said there have been no changes since October 2007. They are continuing to coordinate with the State Historic Preservation Office on two sites in Orange County. He defined areas of the Parkway in Lake County that will have controlled access. The City of Mt. Dora has concerns regarding the recommended interchanges, and CH2M Hill will continue to work with Mt. Dora and Lake County on subsequent phases of the road design. The most environmentally sensitive area of the project is located at the Mt. Plymouth interchange, which is the reason for the extensive bridging in that area. For the same reason, some portion of existing SR46 will be closed and local traffic will be forced to use the Parkway.

Mr. Callahan reviewed the alignments in Seminole County and the connections to I-4 and SR 417. The next public meeting on July 15th will address proposed alternatives and explore questions and issues with homeowners and other interest groups.

A review of the overall impacts includes 59 residential and nine business displacements. There is not a final funding plan, but public/private partnerships are being investigated and full or partial tolling will be considered. Mr. Callahan also addressed trails in the Wekiva Parkway area and restated the goal of making sure that the Wekiva Parkway does not interfere with trail connectivity in the region.

Mr. Callahan concluded by discussing the next steps in the process -- working with FDOT and FHWA for approval of the SR417 and I-4 interchanges, and continuing stakeholder coordination and communication. Public hearing dates will be determined, probably beginning in September.

Senator Constantine asked for comment from Commission members. Councilman Yatsuk said that the City of Mt. Dora is concerned about the availability of a utility corridor through the Wekiva Parkway area for future needs in transmitting water and other services. Mr. Snyder was aware of the need for service corridors and said the city and county will be consulted throughout the design phase of the parkway.

Opening the floor to public comment, Mr. Watson spoke on behalf of homeowners in various communities represented by the Wekiva Parkway Coalition who have concerns with the recommended alignments. On May 10 the Wekiva Parkway Coalition offered 8 alternatives to the County Commissioners and asked for a ground level view of what the Parkway will look like. Mr. Watson said he appreciates the willingness of FDOT to work with homeowners, but asked the Commission to reject the alignment. He said he wants the Parkway to be built, but wants more alternatives. He specifically pointed to Recommendation #3 of the Wekiva report which promotes a parkway look with appropriate natural buffers

between roadways and natural areas and said this cannot be done near many of the neighborhoods because the Parkway is too close.

Mr. Charles Lee agreed that the buffering issue is difficult partly because of the goal of condemning as few homes as possible. He suggested that condemning *more* homes and creating a larger buffer zone with more landscaping might be a better idea for the neighborhoods, even though the people most affected might not like it. He also acknowledged how difficult these decisions are when faced with the real need for the Parkway and balancing the rights of homeowners and the constitutional issues of protecting the wetland areas.

Senator Constantine said he has spoken with FDOT and OOCEA and has their assurance that they are going to meet with homeowners groups and have ongoing discussions. He also pointed out that none of the recommended alignments have been finalized and must still go through the public hearing process in September. Senator Constantine applauded the involvement of Mr. Watson and the Wekiva Parkway Coalition and reminded him that this Commission does not have final say in alignments; the area in question is controlled by the Seminole County Expressway Authority.

Seminole County Commissioner Carey said in the past, government had the ability to reserve right of way. In fact, a corridor for this parkway existed for 20 years, but laws changed and those reserves came and went. There is agreement that the Parkway will be built; we have to figure out the most feasible alignment, which may require a larger buffer. Senator Constantine recalled Seminole County Commissioners being powerless as developments were approved right where we thought the Parkway would be going.

Mr. Snyder turned next to funding and acquisition. The OOCEA is analyzing new growth projections based on recent market downturns and changes in growth projections. A tentative agreement has been reached on 400 acres of the Pines Plantations. Work with funding partners continues as different funding options are considered.

Senator Constantine complimented Mr. Snyder on the work of the OOCEA and the innovative approach to funding which makes the Wekiva Parkway unique. Cooperation between the OOCEA, FDOT, Florida Fish and Wildlife, involved counties, FDEP, and water management districts has been vital to the project.

3. Discussions of Key Reporting Timelines and Legislative Report

Florida Department of Community Affairs' Adoption of Comprehensive Plan Amendments and Land Development Regulations pursuant to Recommendation 14 of the Final Report – James Stansbury, Florida Department of Community Affairs (FDCA)

Mr. James Stansbury reviewed a chart showing the progress of municipalities in adopting comprehensive plan amendments and land development regulations. Since the last Wekiva Commission meeting, the DCA has worked with Oakland and Winter Garden, and both now have all amendments in compliance. He reviewed the cities that are still working towards compliance for wastewater amendments and other out-of-compliance details.

Florida Department of Environmental Protection, Establishment of Total Maximum Daily Loads Pursuant to Recommendation 5 of the Final Report – Vivian Garfein

Ms. Garfein gave a presentation on the Wekiva River Basin Total Maximum Daily Load (TMDL) and Basin Management Action Plan (BMAP) including charts indicating measurements and goals for nitrates and total phosphorous. She also reviewed the TMDL rule language which was adopted into Florida Statutes in June 2008 (available online). Senator Constantine added that the TMDLs and other decisions in the BMAP have been developed over many years and before the Rule was finalized in April, it was widely circulated and published without challenge.

Ms. Garfein continued with a review of the seven lakes included in the study area and the sources of nitrogen and phosphorous. She also presented recommended reductions for biological oxygen demand, total nitrogen, fecal coliforms and other elements in lakes in the study area.

Commissioner Carey asked what the FDEP proposes in developments built 40 to 50 years ago when a lake was used for stormwater retention. Ms. Garfein acknowledged that correcting these problems is not easy. There will have to be stormwater retrofitting, homeowners will have to stop fertilizing their lawns, and lakeside vegetation will have to be considered. Mr. Charles Lee said one low cost remedy is to eliminate lawns that go all the way to the shoreline. A reverse swale and a boundary of natural vegetation keep runoff from ending up in the lake. Ms. Garfein acknowledged that funding has not been identified to cover required education, retrofitting, regulation and enforcement.

FDEP meetings with stakeholders to develop the BMAP will begin in December of 2008. There are already many projects underway with the goal of reducing the loads which were included in Ms. Garfein's presentation. Finalizing the Basin Management Action Plan is a slow, collaborative process which the FDEP hopes to have in place in 2009.

Next Ms. Garfein discussed the Phase 2 sourcing study which indicates nitrate sources in the springs. The data collection and analysis process includes a field study of nitrate in shallow groundwater in three groups: one control group, one group using fertilizer, and one group using fertilizers with best management practices (BMPs). If the Phase I estimate for residential fertilizer changes, the relative impact of the other sources will be adjusted. She acknowledged that residential fertilizer use does not address all sources of nitrogen, but the decision was made to use available research funds to gather this information that will be useful in the future. Senator Constantine added that the agricultural portion is under the direction of the Department of Agriculture and their established BMPs will have jurisdiction for those users.

Mr. Jody Lee of the Department of Agriculture referred to studies that indicate some water coming out of springs could be 15-25 years old and may include nitrate loads from citrus operations that are long-since gone. We could be experiencing a spike at this time, and the BMPs already implemented may take care of future loading. Moving forward, studies of

residential contributions will become more important as citrus operations are on the decline and residential use is on the rise.

Florida Dept. of Health, Rulemaking Activities on On-Site Disposal Systems Treatment Standards Pursuant to Recommendation 9 of the Final Report – Gerald Briggs

Mr. Briggs updated the Commission on a range of options with regard to the pending Rule on on-site disposal systems. The FDOH is still waiting for direction after conducting a year of research on low cost and passive nitrogen reduction strategies. In response to a question about the reason for delay at the Legislative level, Senator Constantine explained that the deputy director of policy in charge of this Rule has investigated the issue and decided to bring in the DEP and DOH to work together to produce a proposal, which has not yet been presented. However, it is an ongoing process and every possible source that may be adding nitrates and phosphates into the springs has to be investigated. We have no idea what will eventually come out of this research. Whether septic tanks contribute 40% or 4%, like everything else, septic tanks will need to be addressed.

Mr. Jody Lee mentioned previous presentations of modeling showing that there are different inputs into springs, which track back from springs to the residential areas in Seminole and Orange Counties. So the tanks or fertilizers on those lawns produce a more immediately impact than legacy phosphates that may continue to dribble in through Clermont or Lake Apopka. He suggested that Ms. Garfein could plan a refresher presentation at a future meeting.

Senator Constantine said that he understands the concern of homeowners like Mr. Higgins. However, the fact remains that there technically is no Rule to debate. At this point, the best thing to do is to work with the FDEP, FDOH, and arrive at the best possible Rule.

Mr. Higgins spoke next, representing residents in the study area mostly along Markham Woods Road. The residents in his group aren't concerned about reducing fertilizer use or getting rid of St. Augustine grass, but they are very concerned about wasting money when science has not shown that their septic tanks contribute to pollution of the Wekiva. In the proposed rules, residents on the east side of the Wekiva would have to spend substantial sums of money on septic tank replacement. We are in favor of clean water, of protecting the Wekiva River, but we are not in favor of waste.

Mr. Jody Lee said that one proposal to a recent draft of the Rule is that larger lots would not require the performance based system. Senator Constantine agreed that this was a good reason for a wide range of parties to be involved in crafting the rule.

Ms. Garfein questioned whether any versions of the rule have ever proposed that a currently functioning system that has not failed will need to be replaced. According to Mr. Briggs, the original rule language proposed upgrading every system. Later revisions do not require replacement of working systems. Senator Constantine added that the most recent versions of the rule would have no effect on existing systems. Mr. Higgins disagreed and said the last proposed regulation required a septic field to be 24" below ground and failure to pass this test would require that the system be removed and replaced with a new system. Mr. Briggs said

one option is to deal with systems as they fail. Alternatively, every system would be inspected and upgrades would be spread out over 5 years.

Senator Constantine agreed that many options have been proposed. He said his preference would be for a strategy similar to building code – new construction requires compliance to the new regulations and when a system fails, you replace it according to the new standard. There are 17 recommendations in the Parkway and Protection Act, and if you remove one, the entire project is compromised. The Senator also said there has been a springs protection act on the table for many years in the legislature that he will be working on and seeking input on this year.

4. Public Comment

After taking comments from Commission members, Senator Constantine called for public comment and recognized Mr. Keith Schue of the Nature Conservancy. Mr. Schue expressed his appreciation for the difficult decisions involved in a project of this scope and suggested that a win-win situation exists by including trails along the Wekiva Parkway. The proposal includes trails and pathways using some existing surface, access to horse trails and possibly using rail bed from Mt. Dora to Sorrento. A handout was distributed. Mr. Charles Lee said he shares Mr. Schue's concerns and would like to see a more detailed presentation of the ideas. Senator Constantine suggested that Mr. Schue contact representatives of Lake County to advance his ideas.

5. Future Meeting Dates

Senator Constantine asked the ECFRPC staff to plan the next meeting for the fall and to include Mr. Schue's presentation in the agenda.

6. Adjournment

Senator Constantine thanked Tara McCue of the East Central Florida Regional Planning Council for coordinating the meeting. He thanked the Commission members and everyone in attendance for their input. There being no further business, the meeting was adjourned at 4:01 p.m.