



Wekiva River Basin
Commission

**Wekiva River Basin Commission Meeting Minutes
November 10, 2011
10:00 a.m.**

East Central Florida Regional Planning Council
309 Cranes Roost Blvd. Suite 2000 Altamonte Springs, FL 32701

1. Call to Order and General Business

Chairman Constantine called the Wekiva River Basin Commission Meeting to order at 10:06 am. Ms. McCue called the roll and announced that a quorum was present. The following members were in attendance:

Chairman Lee Constantine – Chairman
Councilman James Yatsuk – Councilmember, City of Mount Dora
Mr. William Battaglia – President, Battaglia Fruit Company
Commissioner Brenda Carey – Commissioner, Seminole County
Mayor John H. Land – Mayor, City of Apopka
Commissioner Lui Damiani – Commissioner, Orange County
Mr. Charles Lee – Senior Vice President, Florida Audubon Society
Mr. Mike Snyder – Executive Director, Orlando/Orange County Expressway Authority
Mr. Jody Lee – Florida Department of Agriculture & Consumer Services
Mr. Brett Blackadar – Seminole County Expressway Authority
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 Commission
Ms. Vivian Garfein – District Director, Florida Department of Environmental Protection
Mr. Casey Fitzgerald for Mr. Hans Tanzler – Executive Director, St. John's River Water Management District
Mr. Harold Barley – Executive Director, Metroplan Orlando

The minutes of the June 7, 2011 Wekiva Commission Meeting were presented for approval. Mr. Casey Fitzgerald stated that page 2 should read "Water Management District Land Trust dollars". Councilman James Yatsuk made a motion to approve the minutes and Mr. Charles Lee seconded this motion. All were in favor and the motion passed.

2. Current Agency Activities and Legislative Report

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

Mr. Jody Lee updated the Commission on the Best Management Practices (BMP) manual program. The Department continues to develop the remaining three manuals. The

horse/equine manual is anticipated to be adopted by the first quarter of 2012. The citrus industry provided comments for the Citrus Manual and the Department is continuing to work with FDEP in the verification and approval of the statewide manual. The Nursery Manual is moving forward with an anticipated adoption in 2012. The Department continues to work with the Water Management District with the Minimum Flows and Levels Preventions and Recovery committees and workshops, especially in Lake County as related to Lake Sand Springs.

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

Mr. Casey Fitzgerald updated the Commission concerning the Minimum and Maximum flows of the Wekiva River. Background work continues with a goal to enter into rule making in 2013 with public notice in 2012. The rule making for the CUP/EP permitting process is currently on hold due to the Governor's review of all rulemaking. The District hopes to publish rulemaking in late 2012 and continues to work in concert with FDEP to integrate efforts of both agencies in the consolidation of the permitting processes. Mr. Fitzgerald announced that Mr. Hans Tanzler was appointed as Executive Director of the St. Johns Water Management District and Mr. Fitzgerald will provide him with a briefing of the Commission.

Florida Department of Transportation/Orange Orlando Expressway Authority –Ms. Noranne Downs/Mr. Mike Snyder

Chairman Constantine recognized how FDOT and the Expressway Authority will provide open discussion from the two agencies. He also addressed that there are many reports and headlines concerning the Parkway and the Commission needs to have a full discussion of the matter.

Ms. Noranne Downs spoke to the work of FDOT, the Turnpike, and the Expressway Authority to develop a funding plan that meets the needs of FDOT and OOCEA. FDOT District funds will be appropriated with the Turnpike and OOCEA. Currently, negotiations are taking place between Secretary Prasad and Mr. Snyder. After agreement is made, FDOT District 5 will need to approach Metroplan for a vote on the agreement and determine if it is one of the top priorities for the workplan. Ms. Downs continued that as noted in the Revenue Estimating Conference, people are not driving as much and there is currently a \$1 billion shortfall, creating a \$2 billion commitment. The District Work Program did not defer any projects prior to the revenue conference.

Mr. Snyder stated that things are progressing well and the parkway is a complicated \$1.8 billion project with two bonding agencies and 3 counties, with which plans and proposals must adhere to. The OOCEA is very close to reaching an agreement with FDOT D5 and the Turnpike to partner to fund and build the Parkway which will set into motion the honoring of Sec. Prasad's statements that construction will begin next year. Mr. Snyder stated that once a proposal is agreed upon between him and the Secretary, the agreement will be drafted by the lawyers, then must be approved by the OOCEA board and then taken to Metroplan to address the impacts to other projects. These impacts will need to be addressed and brought back to the OOCEA board. Negotiations have been difficult due to legal issues because of the amount of money involved and the need to meet statutory requirements, bond covenants and other legal requirements for all parties.

Chairman Constantine asked for clarification on the major points of impasse in the negotiations.

Mr. Snyder responded that it depends upon the Secretary's response and then it will come down to Metroplan and the FDOT D5 work plan.

Ms. Downs reemphasized that when the Wekiva Parkway project was added to the work program, it did not push any projects out of the work program. Mr. Snyder stated that work program projects may be changed based upon the recent revenue forecast.

Chairman Constantine asked Ms. Downs to expand upon how the partnership to fund and build the expressway would affect other projects in the region.

Ms. Downs explained the parkway has been in the work program with the other projects. She stated that the preferred alignment going to the Federal Government for approval, and has gone through all the MPOS, has a 46 interchange giving local access without getting on the parkway. There is approximately a \$5 million non access cost. Overtime sometimes, district allocated dollars, along with federal dollars, were used to move the project through. Ms. Downs stated that the MPOs will need to decide on the projects that are priority for the region now that the new revenue estimates show a decrease in available funding due to less driving.

Mr. Harry Barley added that there is a big gap in what is planned and what is programmed. He provided an overview of the funding for the four year work program. These projects are protected; however, projects and phases of projects in year 5 are currently not funded. Ms. Downs added that small future projects are funded. Mr. Barely continued that the MPOs will need to evaluate the implications on projects throughout the region, such as in Brevard, Flagler, Volusia and Sumter. Based upon comments from Counties outside the Wekiva Parkway area, education and compromise is needed. Mr. Barley is hopeful that the proposal will be available to the board prior to the next meeting on December 14th in order to have a conversation at the next meeting. Mr. Barley stated that there is a large non-tolled component of the project and it will require additional funding outside what is acquired through tolls. He stated that it is a project of regional significance and the decisions will need to be made with facts and input from others out of region and it starts with a funding proposal.

Commissioner Carey stated that it has always been, and continues to be, the position of the Seminole County Commission that SR 46 needed to have a non-tolled component.

Mr. Lee discussed that if the Wekiva Parkway was never to be built, SR 46 would still need non-tolled improvements which would have been in the plans that Metroplan reviews. Mr. Lee questioned if the cost of the parkway is actually greater than if SR 46 were to be upgraded through conventional means.

Mayor Land described the number of funded projects, such as the Beeline and the East-West Expressway, all removed from West Orange County, which resulted in secondary roadway projects being pledged through local funds. He stated that this area has been on the back burner for a long time and now is the time for implementation. He also thanked Mr. Snyder and the Secretary for their negotiations to fund the project. Mayor Land asked Ms. Downs if the federal and state funds are from the gas tax and whether this money can be used for other projects.

Ms. Downs responded that the District 5 funds are gas tax funds. SR 46 would be from trust funds.

Chairman Constantine discussed that it has always been a struggle as a project moves forward in terms of conflict and spending. Using gas tax funds for road improvements while doing all we can by increasing miles per gallon (mpg) and EPA air requirements, creates non sustainable funding system. This project is extremely important to complete the metro area transportation system and it is his strong recommendation that the completion of the Wekiva Parkway is the top project.

Mr. Lee inquired if there is anything, individually or as commission by some action, to do to move this project past the finish line and assist with the agreement.

Mr. Snyder responded that nothing needs to be done at this point in time. If agreement reached, then there is a lot of work as the community will need to hear about priorities and what the parkway means to region, economic viability and environmental protection.

Ms. Downs reminded the council that although the District has 9 counties, only the Lake-Sumter MPO and Metroplan have to vote.

Commissioner Carey stated that for Seminole County, the Wekiva Parkway is a priority because it affects the region as a whole.

Mr. Barley discussed that the financing plan, bond covenants, and ownership needs come together. Also, there is no financing plan proposal so when something is on the table, it will be discussed. He asked if it may be fitting to take action to have the Chairman call Sec. Prusad to discuss the importance of moving this project forward.

Commission Carey made a motion to the above and was seconded by Mr. Lee. There was no opposition.

Discussion occurred on the availability of the OOCEA Fiscal plan.

Chairman Constantine requested an overview of the plan from Mr. Snyder.

Mr. Snyder proceeded to explain the financial forecast plan and that it does not draw conclusions as to financeable, instead it provides numbers such as traffic generated, where to put toll plazas, revenue generated and other factors for the next 40 years. The numbers are then used to run models to determine the economic viability to build a project. This is the beginning step for modeling needed to meet bond covenants.

Discussion followed concerning how roads do not pay for themselves, such as I-4 and SR 46, but it is important to invest in them, especially regionally.

Ms. Downs stated that the Wekiva Parkway is not competing with I-4 and the top priorities are Sunrail, I-4 and the Wekiva Parkway.

Mr. Snyder continued that the issues with the National Park Service have been resolved with approval from Federal Highway. Section 106 needed to be revisited concerning the noise issue due to new criteria. This is expected to be completed in several weeks with the revised documents being sent to FDOT D5 for final review. The documents will then move to the Federal Highway Authority for approval of a FONSI (finding of no Significant Impacts).

Chairman Constantine asked for questions. There were none.

Florida Fish and Wildlife Conservation Commission – Dennis David

Mr. Dennis David stated the commission has been working to prep for the anticipated wetland permitting associated with the Wekiva Parkway. They also continue their supportive role for providing information and expertise in environmental issues.

3. Discussion 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

– Mr. James Stansbury

Chairman Constantine recognized a report provided by Mr. James Stansbury. According to the report, Eatonville is making progress in comprehensive plan amendments and hope to have it completed by the next meeting.

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

Ms. Garfein informed the Commission that the DEP continues to work towards the development BMAPS. The next meeting of the BMAP workgroup is scheduled for December 16th with an alternate date of December 14th. The Central Office has been working with consultants and FDOT D5, through a number of meetings, for pre-application of segments of the Wekiva Parkway. The deadline for the 2 applications is December 14th with one application currently in house.

Chairman Constantine offered his thank for Mr. Snyder and Ms. Garfein for all their hard work and effort on the Commission and for the project.

Mr. Lee addressed the pending application to expand the Golden Gem Rd. landfill explaining that this landfill is in the vicinity of the highest rate of recharge for the basin. He expressed concern about the groundwater impacts of the landfill expansion, especially as no liner is proposed in the application.

Ms. Garfein responded that the Department is following this very closely; they are working with staff to make sure the area is protected and that DEP is requiring a liner. The necessity of a liner was reiterated by Chairman Constantine.

Mr. Lee asked for Orange County and FDEP to provide details and an update about this project at the next Wekiva River Commission Meeting.

Commissioner Damiani stated that he will work with staff on this and Apopka should be included in the reporting as well.

Chairman Constatine read recommendation 9.

Recommendation 9: *The Committee recommends the Department of Health, in coordination with the Department of Environmental Protection, study and where, necessary, undertake*

rulemaking to achieve nitrogen reduction for on-site disposal systems to protect water quality within the Wekiva Study Area.

Implementation Strategy: *The Department of Health, in coordination with the Department of Environmental Protection, should study and report to the Governor and Department of Community Affairs, no later than December 1, 2004, the efficacy and applicability of on-site disposal system standards needed to achieve nitrogen reduction protective of water quality within the Wekiva Study Area. In conducting this study the Department of Health shall consider:*

- *For new developments within the Wekiva Study Area, and any existing development within the Wekiva River Protection Area, using on-site disposal systems, a more stringent level of wastewater treatment, including the use of multiple tanks to combine aerobic and anaerobic treatment (i.e., as required in the Florida Keys) to reduce the level of nitrates (< 10 mg/L).*
- *The implementation of a septic tank maintenance and inspection program. In developing a septic tank inspection and maintenance program 1, the Department of Health should consider:*
 - *Upgrading grandfathered onsite disposal systems permitted prior to 1982 to meet minimum Department of Health standards;*
 - *Replacing failing systems and systems not meeting current standards; and*
 - *Funding mechanisms for supporting a septic tank inspection and maintenance program.*

Based upon the conclusions of this report, the Department of Health shall, as appropriate:

1. *By March 1, 2005, initiate rulemaking to achieve nitrogen reduction protective of water quality; or*
2. *Recommend legislation for additional statutory authority needed to implement the report recommendations.*

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

Mr. Briggs presented an update on the Passive Nitrogen Study stating that more details are available on their webpage. A second status report is due in February and the project is on track. Mr. Briggs stated that an additional \$2.2 million is needed to complete the project over the next 2 years in order to provide the state with cost effective recommendations based on the study.

Commissioner Carey brought to the attention of the Commission a letter written by the contractor. She asked where legislation was in addressing the funding and what would happen if there was no further funding?

Mr. Briggs stated that it is critical to receive the funding and they are at the critical point of installing the wells. If there is not enough funding to finish the study, there will not be sufficient information to present.

Commissioner Carey asked if the board needs to take action to ensure funding. Chairman Constantine stated that this is a priority of many in the legislature.

Chairman Constantine acknowledged Mr. Quentin Bob Beitel who asked for an explanation about the budget authorization and the availability of cash for DOH.

Mr. Briggs explained the difference between cash and budget authority. \$2.725 million was appropriated out of the trust fund from the DEP department fund. While the appropriation includes remaining DEP funds, no new cash is available. The trust fund does not have the cash in the fund for the project.

Chairman Constantine volunteered to contact the legislators, as chair of the Commission, to discuss money necessary to fund the study.

Commissioner Carey made a motion for the Chairman to contact the legislators and provide ideas to fund the study, as well as a letter to all the state legislators who will vote as this is a statewide issue. Mr. Lee seconded. Motion passed.

4. Other Business

Wekiva Trail Update – TJ Fish, Lake Sumter MPO

TJ Fish provided an update to the status of the Wekiva Trail, its potential economic impact for the area, and the trail route. He also stated that thanks to FDOT, the PD&E was conducted for less than \$200,000. Design funds are programmed and hope to be in 15% design next year to determine how the trail will interact with the Parkway. Mr. Fish explained how the trail has provided opportunities for neighbors to talk, and thanked Mayor Land for hosting a discussion about the economics, land use and transportation aspects associated with the trail.

Commissioner Yatsuk shared how the trail system is a regional connection important to the citizens, and was on top of the list at the Mt. Dora visioning. He is glad to see it moving forward.

Chairman Constantine read Recommendation 19 based upon comment from Mr. Battaglia concerning the responsibility of the Commission.

Recommendation 19: The Committee recommends the Wekiva River Basin Commission be established and authorized to monitor and ensure the implementation of state, regional and local efforts consistent with the Committee's recommendations. The Commission shall report annually to the Governor, the Florida Legislature and the Department of Community Affairs on implementation progress and recommendations for funding assistance to local governments required for planning and implementation.

Implementation Strategy: *The Committee recommends the Florida Legislature create the Commission consistent with this recommendation and the East Central Florida Regional Planning Council provide staff support to the Commission with funding assistance from the Department of Community Affairs. To assist the Commission in its mission, the regional planning council, in coordination with the applicable regional and state agencies, shall serve as a clearinghouse of baseline or specialized studies through modeling and simulation, including collecting and disseminating data on demographic, economic, and environment of the Wekiva Study Area, including the changing conditions of the Wekiva River surface and groundwater basin and associated influence on the Wekiva River springs.*

Chairman Constantine stated that the project is at a critical stage with looking at agreements and studies, and finishing comprehensive plan amendments. He expressed thanks for continued service and hopes that everyone will be at groundbreaking and the parkway opening. Chairman Constantine reminded the Commission that they are up for reappointment and as long as they are not replaced, they still serve on the commission. Chairman Constantine noted that he will bring up the reappointment of the Wekiva River Basin Commission members to the Governor's Chief of Staff.

5. Public Comments

Mr. Scott Taylor from Sorrento spoke to the work that has gone into this project and thanked the Commission. Chairman Constantine responded that it also takes citizens to in order to do the right thing to protect the Wekiva.

6. Future Meeting Dates

Due to the legislative session, the next meeting will be scheduled for January or February of 2012.

7. Adjournment

Chairman Constantine adjourned the Wekiva River Basin Commission Meeting at 11:55 a.m.