



**Wekiva River Basin
Commission**

Commission Meeting
September 22, 2005
1:30 PM – 5:00 PM

Embassy Suites Hotel
225 East Altamonte Drive
Altamonte Springs, FL 32701

MEETING SUMMARY

I. CALL TO ORDER AND ROLL CALL

Senator Constantine called the meeting of the Wekiva River Basin Commission to order at 1:35 pm. The roll was taken by Ms. Andrea Fant. The following Committee members were in attendance:

1. Senator Lee Constantine, Chair – *Senator, Florida Senate District 22*
2. Mayor James Yatsuk – *Mayor, City of Mount Dora*
3. Mr. William Battaglia – *Battaglia Fruit Company*
4. Mr. Charles Lee – *Senior Vice-President, Florida Audubon Society*
5. Commissioner Teresa Jacobs – *Commissioner, Orange County*
6. Commissioner Catherine Hanson – *Commissioner, Lake County*
7. Commissioner Brenda Carey – *Commissioner, Seminole County*
8. Mayor John Land – *Mayor, City of Apopka*
9. Commissioner Steve Wolfram – *Commissioner, City of Altamonte Springs*
10. Mr. Craig Varn for Mr. Thaddeus Cohen – *Secretary, Florida Department of Community Affairs*
11. Mr. Allan Keen – *Chairman, Orlando/Orange County Expressway Authority*
12. Mr. Gary Johnson – *Executive Director, Seminole County Expressway Authority*
13. Mr. Charles Aller – *Director, Office of Agricultural Water Policy, Florida Department of Agriculture and Consumer Services*
14. Dr. Bonita Sorensen – *Deputy State Health Officer, Florida Department of Health*
15. Ms. Noranne Downs for Mr. George Gilhooley – *District Secretary, Florida Department of Transportation*
16. Ms. Vivian Garfein – *District Director, Florida Department of Environmental Protection*
17. Mr. Kirby Green – *Executive Director, St. Johns River Water Management District*
18. Mr. Harold Barley – *Executive Director, Metroplan Orlando*

Senator Constantine offered the May 26, 2005 minutes for approval. Mayor Land moved to approve the minutes. The minutes passed unanimously.

STATUS REPORT ON AGENCY ACTIVITIES – Senator Constantine

Senator Constantine stated each agency has a significant role in the success of the Parkway and Protection Act as well as the Wekiva springshed. He noted the purpose of the current meeting

was not to approve any rules or conditions, but simply for the different agencies to give status reports regarding their responsibilities under the Parkway and Protection Act.

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES – Mr. Charles Aller

Mr. Aller referenced a handout titled *Status Report on Agency Activities: Florida Department of Agriculture and Consumer Services*. He stated there was an original requirement with the Wekiva River Basin Coordinating Committee for the Department to review agricultural land uses within the study area and the available best management practices. He noted the Department completed the requirement 2 years ago; the report was included as an appendix to the St. Johns River Water Management District's (SJRWMD) report given to the Committee in December 2003. He stated the agricultural best management practices adopted by rule for the Department are designed to meet water quality requirements, including the Total Maximum Daily Loads. He noted a Total Maximum Daily Load (TMDL) is administered by the DEP and establishes a load of a pollutant, rather than a numerical water quality standard. He commented as an example that the groundwater quality standard is expressed as 10 milligrams per liter of nitrate while the TMDL for the river would be expressed as a load, as opposed to a concentration. He noted agricultural land uses within the Wekiva River Basin are relatively limited in scope and are in decline.

Mr. Aller noted Secretary Colleen Castille expressed her commitment to work with the Department where agricultural issues are identified. Additionally, he stated following the May 26, 2005 Commission meeting, Senator Constantine stated the East Central Florida Regional Planning Council (ECFRPC) would assist the local governments and agencies in providing them with the information needed to complete their requirements under the Wekiva Parkway and Protection Act. Mr. Aller commented the FDACS is commented to working closely with local governments in need of assistance regarding agricultural issues as they relate to protecting the water quality of the Wekiva springs or the groundwater that provides the base flow. He expressed FDACS's commitment to developing additional and/or enhanced agricultural programs as needed to provide protection for the Wekiva area. Mr. Aller stated the FDACS is in rule development to adopt a number of new agricultural best management practices; he referenced several adoption dates on the aforementioned handout. Moreover, he stated he spoke with Florida Landscape and Nursery Growers Association representatives yesterday and they were committed to conducting a specific and targeted outreach program to implement the best management practices for the Wekiva Basin.

Mayor Yatsuk inquired if there was an attempt to quantify nitrogen loading from the industry as a percentage of effect in the Wekiva Basin. Mr. Aller replied the industry was conducted on relatively small parcels of land. He noted the practices coming on line for the industry are designed to match up the nitrogen inputs to the needs of the plants being produced. He commented there may be some loadings from agriculture, but he is not sure how it relates to total loading to the system.

FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS – Mr. Craig Varn

Mr. Varn stated the Department is responsible for assisting local governments in implementing requirements for the Wekiva and reviewing adopted Comprehensive Plans used to implement the requirements. He made note of the technical assistance funding for 2005; the Legislature provided additional funding and funding for the Wekiva matches last year's total technical assistance funding. Mr. Varn mentioned there are three areas where the Department wants to help: 1. water supply = \$100,000 toward assisting local governments in preparing the elements to incorporate programs into their Comprehensive Plan. He noted the Department estimated approximately \$10,000 for each local government upon completing the application; 2. wastewater facility plan = \$150,000. Mr. Varn stated the wastewater facility plan is not a

requirement for local governments under the statutes, but he hopes to encourage local governments to do so by providing funding for that opportunity upon completion of applications. He noted there will be a minimum of \$10,000 for each agency, perhaps more depending on the number of applicants; 3. land development regulations = \$105,000, \$75,000 of which will be used to hire a consultant to assist in drafting a model code for local governments and \$30,000 to provide the local government assistance in tweaking the code to their specific requirements.

Mr. Varn noted there is a June 1, 2006 deadline to submit drafts concerning the water supply facility plans and wastewater facility plans for funding purposes. He commented in regards to next year's budget, the Department has proposed approximately \$20,000 to help in implementing Land Development Regulations (LDR) and \$100,000 for the interchange plans.

STATUS REPORT ON LOCAL GOVERNMENT PLAN AMENDMENTS – Mr. Jeff Jones

Senator Constantine asked Mr. Jones to give his presentation for agenda item #4, the Status Report on Local Government Plan Amendments, due to its relation to Mr. Varn's update.

Mr. Jones referenced a handout titled *Wekiva River Basin Commission Status of Local Plan Amendments*, which outlined where the local governments were in terms of preparing and transmitting their Wekiva amendments. Mr. Jones noted there are fifteen local governments within the Wekiva River Basin study area that are required by the Parkway and Protection Act to submit plan amendments, specifically relating to land use strategies, and to have those amendments adopted by January 1, 2006. He commented the ECFRPC has met with the local governments over the past several months and has participated in three coordination meetings. Mr. Jones referenced a table on the last page of the aforementioned handout. He mentioned he went to the Lake Mary Local Planning Agency (LPA) meeting last night and was given authorization to transmit its amendment; hence, the table should read Lake Mary as under the "transmitted" column, as opposed to the "under development" column. He mentioned of the fifteen local governments, there were nine still preparing their amendments, five that had transmitted them to DCA, and one, the City of Mt. Dora, that had its amendment adopted.

Mr. Jones stated the ECFRPC will continue working with the local governments as they continue to develop their amendments and transmit them to DCA. He noted the ECFRPC is one of the reviewing agencies and that ECFRPC staff would work with the local governments up until the time of adoption.

Commissioner Jacobs stated Orange County had concerns about their language in attempting to submit its amendment. She commented that looking at Mt. Dora's adopted amendment could be helpful to other agencies and asked Mr. Jones if the language in Mt. Dora's policy was more specific than that included in its Act. Mr. Jones replied in the affirmative and stated he would provide a copy of Mt. Dora's policy for Commissioner Jacobs. Commissioner Jacobs stated the agencies of the Wekiva Commission should put forth an effort to ensure everyone is adopting similar policies. She encouraged the ECFRPC and DCA to come up with suggestions for specific language to be included into the Comprehensive Plans. Senator Constantine stated at the last meeting, he asked the ECFRPC and DCA to do such activity, and during the past legislative session, he worked with Mr. Varn on such effort. He stated even though all fifteen communities need and should have their own vision for the future, it is up to the ECFRPC, in conjunction with the DCA, to put together a general application. He stated in regards to the Wekiva Protection Act and the study area, it is incumbent upon the DCA to take the lead in putting together a general form of what each county should look at and then work with the cities and counties to come up with individual plans.

Mr. Varn noted DCA had not developed drafts for the local governments as of yet, but planned to work toward such an effort. He mentioned DCA had worked on implementing a telephone conference program, to which all local governments and agencies are invited so all can share and discuss their visions and concerns. Senator Constantine commented the DCA needed to develop a set of guidelines for all the communities and counties; Mr. Varn replied DCA would work with the local governments in such an endeavor. Mr. Jones stated the ECFRPC will work with the DCA in producing a Basin land use strategy to see how close local government Comprehensive Plans are to meeting the intent of the Act.

Commissioner Jacobs inquired as to Senator Constantine's thoughts regarding the timeframe of developing a set of guidelines and getting all agencies in compliance with them. Senator Constantine commented there would be another meeting before the end of the year and he would like to see where the different agencies are in getting their Amendments adopted before the committee recommends an extension. Mr. Varn commented the deadline would not change because it is in accordance to statute; however, he noted he understands the positions of the local government representatives and believes, with the continuous effort of the DCA, the governments would meet the deadline.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION – Ms. Vivian Garfein

Ms. Garfein introduced Ms. Christianne Ferraro, DEP Program Administrator for Water Facilities. Ms. Ferraro referred to a PowerPoint presentation. She noted the DEP presented a report, titled *A Strategy for Water Quality Protection – Wastewater Treatment in the Wekiva Study Area*, to the DCA in 2004. She stated the DEP charge under the Parkway and Protection Act included studying the efficacy and applicability of water quality and wastewater treatment standards needed to achieve nitrogen reductions protective of surface water and groundwater quality within the Wekiva Study Area and to initiate rulemaking, if necessary, by March 1, 2005. She noted a total of 48 wastewater treatment facilities are located, or have land application sites, within the Wekiva Study Area. Additionally, she outlined the DEP recommendations regarding the primary, secondary, and tertiary protection zones. She made note of the DEP public workshop to be held on November 1, 2005 at 9:00 am at the Apopka City Hall. Ms. Ferraro commented the DEP plans to have its rule adopted by the Environmental Regulation Commission (ERC) in early 2006.

Commissioner Hanson asked if DEP made any provisions for subsidizing new systems within the Basin. Ms. Ferraro replied such provisions are not a part of the DEP recommendations.

Mr. Lee raised the question of how to service a sewer system for low density development. He suggested an individual waste treatment system offered by public entities (i.e. commercial, municipal, county, government etc.) on individual lots. He stated the public utility company would sell, install, and service the system, as opposed to laying pipes, as part of the public utility service; such effort could resolve the problem of scatter density. Commissioner Hanson noted the cost would have to be considered for providing individual systems. Mr. Varn noted the DCA is working with the DEP on a regional stormwater plan.

Mr. Battaglia commented if the Commission resorts to a governmental serviced septic tank system on an individual basis, it would be undermining one of the overriding goals of the Commission and the resulting legislation, which was to not analyze lands on a case by case basis, but to look from an area wide perspective and try to obtain densities that would preclude sprawl, encourage wastewater reuse, and minimize infrastructure needs. Ms. Ferraro replied the focus would be on existing septic tanks that are in very dense areas, not new developments. Senator Constantine concurred with Ms. Ferraro and replied the Commission is trying to cluster development. Commissioner Carey commented the Commission should proceed with caution as such an effort may result in unintended consequences. Mayor Yatsuk noted the

Green Swamp has a procedure for existing septic systems where they are pumped periodically, which extends the life of the system and reduces nitrogen loading.

FLORIDA DEPARTMENT OF HEALTH – Dr. Bonita Sorensen

Dr. Sorensen stated the Department of Health (DOH) was asked to provide two deliverables: 1. a report by December 2004 related to onsite systems; 2. rulemaking by March 2005 if necessary. Dr. Sorensen noted the report was submitted to the Commission and the Governor in December. She mentioned the report studied the current science as of 2004 and included a compilation of research findings. Additionally, she noted the focus of the report was on nitrogen because septic systems can essentially reduce nitrogen. The report's primary focus was on reducing nitrogen levels consistent with recommendations of the Department of Environmental Protection (DEP). She introduced Mr. Mark Hooks to provide a summary of the DOH happenings over the past several months, its current revised rule, and anticipated future issues.

Mr. Hooks referenced a PowerPoint presentation. He stated DOH held four public meetings, the major concern being the cost of system replacements for existing homeowners. He noted DOH held a Technical Review Advisory Panel (TRAP) meeting on September 15, 2005 and would hold two additional meetings before the end of the year to discuss rules. He noted there were several revisions to the rule proposals and mentioned information could be found on the Department's webpage located at www.doh.state.fl.us/environment/ostds/wekiva/wekiva.htm.

Commissioner Jacobs referenced the rule regarding existing systems that would be affected in the primary and secondary protection zones, and noted areas that would be covered by wastewater facility plants in 2011 were exempted; she inquired as to the number of systems impacted by this rule. Mr. Hooks stated he could not make that determination as of yet. Commissioner Jacobs inquired as to the total number of systems. Mr. Hooks replied there are 90,000 systems existing in the Wekiva study area in all protection zones, 70% of which would fall in the primary and secondary zones. Commissioner Jacobs inquired if the financial impacts would be borne by the private or public sector. Mr. Hooks commented the Department would explore all federal and state grant programs made available.

Commissioner Carey stated she would like to see the number of systems, which was stated to be 90,000, broken down by counties. Mr. Hooks replied the Department has the number of systems broken down by counties and that he may be able to break it further down into municipalities.

Senator Constantine asked the Department of Health to bring forth four things:

1. Regarding the new rule proposal, an estimate in working with the DEP and others of 2011 and the wastewater treatment, how many might be affected in reducing.
2. Referencing Mr. Hooks' statement that of 90,000, 70% would be in the primary and secondary zones; a real number, as opposed to 70% of 90,000, would be more helpful.
3. Not all systems in the primary and secondary zones need replacing; there has been discussion about those prior to 1982 and if they were not effective. There is going to be a percentage, potentially a large percentage, of systems that if properly maintained would not need replacing; Senator Constantine would like to see an estimate on that.
4. There has been a lot of speculation and misinformation about costs; it would be helpful to know a true cost and a true cost difference – a true cost difference between what it cost now and what it may cost under the new rule (not what others have speculated it to cost).

Senator Constantine stated the aforementioned are incumbent upon the DOH to provide to the Commission and to the public.

Mr. Lee suggested the Commission needs to make sure a commitment to delay things until 2011 is a true commitment, enforceable under the capital improvements elements that are going to be required of each local government under Senate Bill 360.

Commissioner Hanson stated if 2011 is the date agreed upon, it needs to be set by the state government because they're the ones who will help the Commission in funding.

Mayor Land noted the funding needs to take place for both the septic systems and the sewer systems the local governments will be providing; he commented such provision needs to be included in the five year plan.

Mayor Yatsuk made reference to the Green Swamp using existing systems and asked if there was a quantified effect of the decrease of nitrogen in such a procedure. Mr. Hooks replied the maintenance of the conventional septic system will not alter its ability to treat the nitrogen.

Senator Constantine announced he was giving members of the audience a chance to speak at this time. He introduced Representative Fred Brummer. Rep. Brummer requested the Wekiva River Basin Commission endorse additional time before the DOH is to implement their rule, as well as additional study within the Wekiva study area to determine whether or not septic systems endanger the River.

Mr. Doug Everson stated he is concerned about the misinformation and the manner in which the DOH has handled this particular situation. Mr. Everson asked the Committee to give clear directions to the DOH regarding the following: 1. a comprehensive field test and study of a representative number of septic tanks be performed by a creditable disassociated third party in the specific Wekiva recharge area; 2. DOH sample the existing systems; 3. DOH explore technologies that can address the removal of nitrates; 4. a report be prepared by the DOH and the septic tank industry in which costs of available technologies and the solutions offered are compared to a reasonable expectation of the results and benefits; 5. DOH to have a series of well publicized public hearings to gather information and input before development of the rule; 6. reports and public input be provided to the Wekiva Basin Commission so the committee can provide a clear direction to the DOH about what rule to make.

Mr. Harry Beckham asked Mr. Hooks his definition of disposal sites. Mr. Hooks replied disposal sites are sites that dispose of waste, such as septic tanks or grease traps. Mr. Hooks noted he was informed there were no current active disposal sites in the area. Mr. Beckham requested the permit include a clause concerning existing sewer treatment plants in cities and counties that are already on line; he requested that if a citizen lives within a certain distance where he can connect and he wants to pay to have it funded or a portion of the connection fee, that the cities and municipalities be directed to allow such activities, even if the citizen does not live within the city limits of that particular area.

Mr. Dominique Buhot commented many minorities and senior citizens will be affected by the retrofitting of septic systems and will not be able to afford to replace the systems. He asked the Commission to consider the costs homeowners would have to bear in replacing the systems.

Mr. Ted Arthur recommended that members representing Seminole and Lake Counties convene with members representing Yankee Lake to discuss treating the west bank of the Wekiva River. Commissioner Hanson replied representatives of Lake and Seminole Counties have been proactive on this particular issue by discussing installation of a sewer system in the Wekiva Falls area running to Yankee Lake. Commissioner Hanson stated there is now a need for state and federal funds. She noted Lake County is in the process of applying for funding.

Dr. Thomas Kwader, a hydrogeologist, commented that the data obtained for the Wekiva does not support the conclusion of nitrates being problematic. He noted there were two septic fields, one included five rounds of sampling and the other included six; he stated never were the nitrate levels at 2 a hundred feet away from the septic tanks and above the draining fields at the end of the septic tanks. He noted the conclusion reads nitrates had the potential to move quickly into the springs and the groundwater, however the data shows differently. Additionally, he commented that before the Commission resorts to using expensive systems in the Wekiva Basin, it should consider the other systems which work well through proper maintenance. He noted the FAVA (Florida Aquifer Vulnerability Assessment) model is good, but that caution should be used in deciphering its results. Mr. Lee suggested Dr. Kwader visit the Department of Community Affairs' website to review the PowerPoint presentation by Dr. Marty Wanielista, which addressed movement of groundwater and the speed with which it moves to the springs.

Commissioner Jacobs inquired about the cost of doing an actual study of the area, as opposed to a model. She asked is it possible, even if the dilution effect is significant, that over time the nitrates leaving a septic system will end up in the aquifer. Commissioner Jacobs was concerned that the examples presented did not necessarily give the Commission confidence the nitrogen would not ultimately be released into the aquifer. Mr. Varn noted DCA planned a technical committee meeting (with the other agencies) where the agencies can share and compare all the reports and data they possess. He noted there will be a more detailed presentation on the movement of nitrogen to the aquifer in the near future.

Dr. Kwader stated he would like the Commission to do a specific study for the Basin to determine the nitrogen level, the flow of nitrogen, and its impact on the springs.

Mr. Scott Thompson commented testing would prove the systems are not necessary. Additionally, he stated the costs are too high for the public to bear.

Mr. Michael Ratti, Apopka, reiterated that the Basin needs to be studied and the installation of the septic systems delayed.

Mr. Battaglia stated as a private citizen, he is not inclined to foist huge expenses off on the citizenry and residents in order to reach some criteria that is now being challenged. He commented the big issue is the science seems to be flawed. He stated attacks are being made on the very science that served as a basis for the committee's conclusions and legislation. He commented as the voice of private property owners, the committee is stepping on very precarious ground because this may be just the first of many of the committee's sciences to be attacked; he noted if the science is flawed, then the law is flawed. Mr. Battaglia suggested the Commission take a step back and see what it is that the committee is trying to accomplish regarding the legislation and the implementation of that legislation.

Senator Constantine announced the next Wekiva meeting would be held on December 14, 2005.

Mr. Lee suggested the ECFRPC staff or the DCA assemble all the material on the task force and the coordinating committee that relates to the nitrate issue for everyone to review. Mr. Varn noted most of everything presented to the committee can be found on the DCA website. Mayor Yatsuk commented it would be helpful in subsequent meetings to have people elaborate on ideas and concerns when discussing the modification of systems.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT – *Mr. Kirby Green*

Ms. Mary Brabham, on behalf of Mr. Green, presented a PowerPoint presentation. Ms. Brabham made note of the District's requirements and its timeline. She stated there's a plan to

go into the river and conduct studies and surveys. Additionally, she noted the Stormwater Master Plan should be completed by October 2005. Senator Constantine noted the District's next requirement according to the legislation is to establish a Pollutant Load Reduction Goal (PRLG) by December 1, 2005.

FLORIDA DEPARTMENT OF TRANSPORTATION – *Mr. George Gilhooley*

Ms. Noranne Downs, speaking on behalf of Mr. Gilhooley, stated the DOT is working well with the Expressway Authority and a study team from CH2M Hill in preparing the initial alternatives and preliminary assessments. She noted upcoming events include a project and environmental advisory group meeting on October 14th and several public workshops in November. She commented after the workshops, the DOT will make refinements and define the concepts with more detail.

ORLANDO/ORANGE COUNTY EXPRESSWAY AUTHORITY – *Mr. Allan Keen*

Mr. Snyder stated at the last meeting, OOCEA had entered into an agreement with property owners for New Garden Coal and since that time, OOCEA had executed that agreement and the money had been transferred and the contract closed. He noted OOCEA is continuing discussion with all the other property owners and are coordinating closely with the other agencies and interested parties. He commented OOCEA is confident it will make significant progress.

DISCUSSION AND COORDINATION OF AGENCY RULE MAKING ACTIVITIES – *Senator Constantine*

Senator Constantine stated it is imperative that there be coordination amongst the agencies.

Mr. Varn noted there will be an open house to provide an opportunity for overview. Additionally, he noted there will be a technical assistance meeting where everyone would be invited to participate via telephone.

DISCUSSION OF NOVEMBER/DECEMBER MEETING DATE – *Senator Constantine*

Senator Constantine asked if there were any objections to the next meeting being held on December 14, 2005; there were no objections. He noted the meeting will be held at the same time and possibly at the same place or some other place that can hold as many people as in today's meeting. Senator Constantine stated that every item on today's agenda will be included on the December meeting agenda.

PUBLIC COMMENTS

ADJOURNMENT – *Senator Constantine*

The meeting adjourned at 4:16 pm.