Minutes
Agricultural & Natural Resources Advisory Committee
Thursday, May 14, 2015, at 9:00 am
Charlotte County Building Construction Services
Large Conference Room
18400 Murdock Circle
Port Charlotte, FL 33948-1094

MEMBERS PRESENT
Andy Dodd, Chairman
Orrin Webb, Secretary
Steve Smith
Dan Ryals
Nigel Morris
David Kemeny

MEMBERS EXCUSED
Lindsay Harrington

MEMBERS ABSENT
Chris Hencher

GUESTS
Gary Bayne, Southwest Engineering and Design
Rob Berntsson, Big W Law Firm
Elizabeth Andres, Kitson & Partners
Tricia Hobson, FDACS, OAWP
Andy Neuhofer, Florida Farm Bureau

STAFF
Ralph Mitchell, Environmental & Extension Services

CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM
The **May 14, 2015** meeting of the ***Agricultural and Natural Resources Advisory Committee*** was called to order at 9:06 a.m. by ***Chairman Dodd*** who noted that there was a quorum present.

ADDITIONS/DELETIONS TO AGENDA
None.

APPROVAL OF MINUTES
Chairman Dodd called for action on the minutes of January 8, 2015, which were approved on a motion by ***Mr. Smith,*** second by ***Mr. Morris***, and unanimously carried. Upon determining that there were no deletions or additions being proposed to today's agenda, Chair Dodd indicated that Commissioner Duffy would not be joining the group today.

NEW BUSINESS
- Watershed Overlay District and ½ mile setback

Chairman Dodd indicated he had maps to accompany the discussion of the topic, the first of which he indicated was Map #4 from the Charlotte County Comprehensive Plan. He pointed out that this map shows the Shell and Prairie Creek watersheds, which flow in behind Henderson Dam and constitute the water supply for the City of Punta Gorda. The map is well-recognized, and was in all the SWFWMD literature when the Joshua / Prairie Creek Reasonable Assurances was done, and he said he understood it to be SWFWMD's line for where they believe the basin lines are. The enhancement that the County added, he said, was the half-mile setback, which goes up all the tributaries of both creeks, and also included areas to the north around Long Island Marsh. The Comp Plan indicates that properties within this half-mile setback would be treated differently than properties in the rest of the Overlay District. During member participation in the Comp Plan revisions, progress was made with regard to the issues surrounding transmission lines for petroleum products; another achievement was with regard to other proposed changes within the half-mile, where now users are simply required to use Best Management Practices if the user's permit actually contains that requirement; this would be essentially anyone getting a water use permit.

At that time, however, a discussion arose during the adoption hearing for the excavation ordinance; a Comp Plan change had specified that if you are existing pit within the half-mile setback, operating with no violations, you can apply for renewal if your permit runs out, and the County will issue that renewal. Many people have fought that, saying renewals should not be granted within that half-mile setback once the permit expires. During all the discussion, **Chairman Dodd** said, he heard the question asked, what is the basis of the half-mile setback and was it done scientifically; he now asked Ty Harris, Director of Community Development, to speak to that issue. **Mr. Harris** introduced himself to the group, and indicated that the matter has been researched and no scientific basis has been found for that specific recommendation. However, he said, based on his experience as an attorney, after something has been in the Comprehensive Plan and not been challenged for 12 months, it is deemed to be accepted. This doesn't mean that it is "scientifically valid" and it can't be challenged; just that, from a legal standpoint, it is considered accepted and any challenge would have to include a study to refute it.

? asked what can be done within the half-mile setback; Chairman Dodd responded that anything AG-related was OK. Development cannot be intensified, but AG can be; Group III excavations are prohibited; density is restricted to the maximum density allowed, unless a Conservation Subdivision is done; AG Best Management Practices are required to be consistent with all Water Management Districts permitting requirements; bio-fuel generation is prohibited though there are exceptions for operations run in conjunction with an AG operation. Prohibited uses are given separately; in no case, can it get closer than a quarter-mile. Bulk storage associated with AG use is allowed; incidental permitted uses should be allowed, both due to the efforts of ANRAC. With regard to the overlay, due to the efforts of many people, a number of conditions were eliminated which restricted what could be done with petroleum products and other hazardous substances in the watershed; that was language from a prior Comp Plan which the City of Punta Gorda favored after the pipeline went through to serve the airport and FPL facilities on SR 31. The question was raised whether that language would restrict fuel stations going in; Chairman Dodd referred to the language restricting the "generation or continuous transmission of" such products, which seems to make pipelines a nonconforming use. The question that remained was whether C&G facilities would be prohibited.

Mr. Harris provided an update as to the progress of the lawsuits; he was referring to the challenges to the 2050 Comp Plan Revisions mounted by the Friends of Cape Haze and the Sierra Club. The

County has been working with both groups, trying to reach a reasonable settlement; he suggested that ANRAC, prior to finalization of the settlement language, needs to have an opportunity to comment on it. The attorneys are essentially working just with the people who have sued, and the resulting language needs to be vetted by other groups that aren't part of that lawsuit. **Mr. Harris** said he thought the process would be coming to an end soon; if the settlement could not be reached, the attorneys would be 'switching into litigation mode' soon. He suggested that ANRAC be looking for there to be information to review within the next week or two, and that Andy, as the group's representative, ask to be included in the language review. It was agreed that Mr. Harris would put Mr. Dodd's name forward to the County Attorneys Office for that purpose. **Chairman Dodd** called for a motion from the group to name him as the person to conduct this review; **Mr. Smith** made that motion, second by **Mr. Morris**, and passed unanimously.

Mr. Harris indicated that the negotiation involved reopening the issues of fuel storage, among other things, so the language review would be important. ? asked if the other side was providing any scientific data for their positions; **Mr. Harris** noted that he had not been involved in the settlement negotiations and so could not speak to that point.

Chairman Dodd asked if there were any further questions; **Mr. Webb** asked who came up with the half-mile setback. Mr. Harris indicated that it was likely Inga Williams, who is now the Community Development Director for Glades County. **Mr. Webb** asked why it was an issue, if it was a made-up measure based on what someone "felt like"; Chairman Dodd recounted the events of the time, including his objections during the process, and how the proposed revisions to the land development regulations appeared to be moving toward incorporating that same language. Further discussion ensued on this process history; Mr. Harris noted that one of the functions of the Comp Plan is to direct what appears in the land development regulations, and he pointed out that the Sierra Club had indicated months ago that they intended to sue the County because the land development code had not yet been updated to reflect the Comp Plan language. This initiative was unsuccessful, as the State's Department of Economic Opportunity declined to sue.

Chairman Dodd indicated that his preference would be to recommend to the Board of County Commissioners that the half-mile setback be eliminated. Further discussion ensued on the various options available. **Mr. Morris** asked, if the idea is to return to the watershed map, then the question is, with what regulation? **Chairman Dodd** responded that it would be any regulation that applies to the entire overlay, and AG and resource conservation uses are encouraged to use Best Management Practices; we can live with that. **Chairman Dodd** observed that feeling might not extend to a proposal to put in a pipeline; **Mr. Harris** commented that it was his understanding that the language was originally in reaction to such a proposal. The question was asked if the existing transmission lines were affecting the County's water quality; **Chairman Dodd** said he didn't think so. **Mr. Morris** moved that the ANRAC recommend to the Board of County Commissioners that the half-mile setback be disbanded and existing water management district regulation be adopted within the watershed; second by **Mr. Webb**; the motion passed unanimously. **Mr. Harris** noted that the Planning group takes its direction from the Board, which in turn looks to see what other jurisdictions are doing, they do not reinvent the wheel. **Chairman Dodd** asked about the science behind these initiatives; **Mr. Harris** indicated that such studies could be commissioned and that would probably be good money to spend, since maps of this type should be science-based to begin with. **Mr. Harris** suggested that a comp plan amendment could be submitted for this change, though they might expect that amendment to be challenged. A question was raised about the original process of creating the setback and further discussion ensued on this topic.

Mr. Morris asked Mr. Bayne whether it wouldn't be a two-edged sword to bring this before the Commission, depending on the outcome of a study; **Mr. Harris** agreed that the science would be whatever it would be and that would influence the outcome. **Chairman Dodd** clarified that ANRAC is saying to simply eliminate any setback. **Mr. Harris** cautioned that the Sierra Club would challenge that on the basis that there is no data and analysis to support that change; remember, he said, the setback is presumed to be correct since no one had challenged it for a year. The County would have to respond with appropriate data and analysis to eliminate it; we would have to figure out how to meet that requirement, whether there is a report, a study, something other groups have developed, or whatever exists to support it. Further discussion ensued on the topic.

OLD BUSINESS

Waters of the United States, EPA Rulemaking, update
Chairman Dodd indicated that he had talked to Commissioner Doherty, who gave him a report resulting from a meeting that three Charlotte County Commissioners had in Washington, DC with a delegation composed of Rubio, Nelson, Rooney, Buchanan and Claussen, who all support our position of eliminating that initiative. There should be a final rule within a month. It is anticipated that if passed, any permit request after that would be an Army Corps permit, triggering things like panther evaluation, etc., which Chairman Dodd said would basically shut everything down. However, there is a House bill that has passed, called the Regulatory Integrity Protection Act, which would address this issue, but which has not yet passed the Senate, and which legislators believe would be vetoed if it did pass. There are other legislative maneuvers available as well, which were discussed.

Impact Fees
Chairman Dodd noted that the tiered impact fees are no longer in place, so house construction out east is no longer subject to impact fees greater than elsewhere in the County. However, the impact fees will be raised for everyone in July. Mr. Harris concurred, and suggested that if a permit application is submitted, then that would be vested under the old schedule; the permit does not have to have been issued already.

STAFF COMMENTS
Mr. Ralph Mitchell gave comments on recent Extension Service activities, which included a field trip through the AG lands; he also gave information on upcoming training opportunities.

CORRESPONDENCE AND COMMUNICATIONS
None.

PUBLIC COMMENTS
None offered.

MEMBER COMMENTS
Mr. Morris commented on the email sent to members by Mr. Harrington just prior to the meeting date; he felt that Mr. Harrington was a little confused SWFWMD, SFWMD and DOT and FWC and the Commission have all been involved in the topic he raised since at least 2010. **Mr. Morris** said he is still trying to figure out exactly where the referenced reservoir was going to be, and has found information indicating that it wouldn't be a 'classic pump-in, gravity out' – it would be more like a large flooded area. **Mr. Gary Bayne** indicated it would be located at the southeast corner of the Webb Wildlife Area, backing up to a property called the Drexel Crump Ranch, which is a 700-

acre property abutting I-75, just south of Oil Well Road. **Mr. Morris** asked how the water was intended to get to that property; some discussion ensued on the water retention and sheet flow properties in that area. This is part of the Yucca Pens area, and the Charlotte Flatwoods Initiative is trying to bring that water through to restore the Yucca Pens; the idea is store water that can be released during the drier season, to extend the hydroperiods in the Charlotte Flatwoods. It would be part of the DOT stormwater system, in terms of who would manage it. **Mr. Morris** asked where the plans could be seen; **Mr. Bayne** indicated there were permitted plans. Further discussion ensued, and it was noted that this plan has been eight years in the making. **Mr. Morris** said he had spent time in the Yucca Pens and considered it to be quite wet already, meaning that in the wet season it would be really, really wet; **Mr. Bayne** reminded that the plan was to sequester the water through the wet season and release it in the dry season.

FUTURE MEETING TOPICS
Chairman Dodd suggested this Yucca Pens matter might come back before the group in future.

GUEST COMMENTS
None offered.

NEXT MEETING

- July 9, 2015 at 9:00 a.m. in the Building Construction Services large conference room.

ADJOURNMENT
The meeting was adjourned at 9:41 a.m.

Approved by the Committee and accepted by
the Secretary: