Minutes

Agricultural & Natural Resources Advisory Committee
Thursday, September 10, 2015, at 9:00 am
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
Lindsay Harrington

MEMBERS EXCUSED

MEMBERS ABSENT
Chris Hencher

GUESTS
Rob Berntsson, Big W Law Firm
Tara Poulton, SWFWMD
David Brumbaugh p SWFWMD - Farms
Andy Neuhofer, Florida Farm Bureau
SWIFT MUD

STAFF
Ralph Mitchell, Environmental & Extension Services
Matt Trepal, Principal Planner
Jie Shao, Principal Planner
Claire Jubb, Director Community Development Department
Commissioner Tricia Duffy

CALL TO ORDER/ROLL CALL/DETERMINATION OF QUORUM
The **September 10, 2015** meeting of the ***Agricultural and Natural Resources Advisory Committee*** was called to order at 9:09 a.m. by ***Chairman Dodd*** who noted that there was a quorum present.

ADDITIONS/DELETIONS TO AGENDA
Chairman Dodd indicated he would like hear more about the City of Punta Gorda - Charlotte County hearing about mining and excavation; he indicated that guest Rob Berntsson had offered to address that subject.

APPROVAL OF MINUTES

Chairman Dodd deferred approval of the May 2015 minutes until the next meeting.

NEW BUSINESS

Comprehensive Plan Amendment Updates

Chairman Dodd gave a quick summary of circumstances pertaining to the rescinding of the most recent Comp Plan revisions, and then introduced the new Community Development Director, Claire Jubb, to give further information.

Claire Jubb, Community Development Director, noted that the Commission had rescinded the previously-adopted amendments to the Comprehensive Plan. The intended changes will come back before the Board in November and December in two sections; the first section will be all of the "non-controversial" issues, such as Babcock, US 17, Burnt Store and revisions related to natural resources excluding wetlands language. Ms. Jie Shao, Principal Planner, provided some comments on this process also.

Ms. Jubb continued, noting that the second section of the proposed amendments to come before the Board will be the more controversial changes, which it is anticipated may eventually be challenged. The aim of this approach is to focus any challenges down to specific elements. ***Ms. Shao*** added that the elements presented in December will include the TDU-related issues and the extended Urban Service Area policy, along with the revisions to all the policies related to wetlands. ***Ms. Jubb*** concluded by indicating that any challenges directed toward any one of these separate elements would be more easily and quickly resolved. She also announced that there would be two workshops dedicated to discussion of the elements, one on September 16th, for the non-controversial elements, and the second one on September 30th for the remaining issues. These will be general roundtable-style workshops, not involving the Commissioners. ***Ms. Jubb*** also pointed out that the new amendments being proposed will include language that the Department believes will serve to make the Plan a better plan, some of which was in response to the challenge and developed as part of the negotiations.

Mr. Morris wanted to know where they can find the language which is being proposed; Ms. Shao indicated she would be able to send the revisions to everyone by email. ***Chairman Dodd*** suggested that she send the language to him, and he would redistribute it to the members. ***Ms. Jubb*** indicated it would also be available online by the end of business tomorrow.

Commissioner Duffy stated that the major objections were coming from Friends of Cape Haze and Sierra Club, noting that while they are entitled to their opinion, they seem to be opposed to any and all development, and their actions are costing taxpayer dollars. ***Chairman Dodd*** indicated he would attend the roundtable discussion along with his prior comments to be restated, if it was the will of the membership. On motion by Mr. Morris,

seconded by Mr. Smith, and unanimously approved, ***Chairman Dodd*** received Committee approval to attend the roundtable and present their concerns.

FWC Panther Habitat Conservation and Management

Chairman Dodd next addressed the subject of the Panther Habitat Conservation and Management Plan; he noted this had been rolled-out by FWC a number of months ago at a meeting in Sarasota. He noted this was not an attempt to get the species de-listed, but rather an attempt by FWC to lay out their position that the Federal government ought to do more if panther zones are going to be expanded north of the Caloosahatchee, that recovery plan should not be FWC's sole responsibility, especially since the third zone goes up into south Georgia. ***Chairman Dodd*** indicated he thought it was a good plan; Commissioner Bergeron voted against it but the balance of the FWC Commission voted in favor of going forward with it. He also speculated on some of the collateral effects of pursuing the plan.

Mr. Morris commented on the subject, said he thought the draft plan is a good one which puts the onus for protecting this federally-listed species where it belongs. In response to a question from the Chair, Mr. Ryals stated he has not seen any panther kills of cows, only a couple of deer; Mr. Morris said he also has only seen deer kills recently. Further discussion ensued.

City of Punta Gorda – Comprehensive Plan Challenge.

Mr. Berntsson gave an update on the City's challenge to the amendments to the excavation language of the Comp Plan, an amendment that was adopted separately from those which have been rescinded. The language included specifically addressed mining within a half-mile of Shell and Prairie Creeks, which is the City's water supply. The County has a special Surface Water Protection Overlay District, which has grown over the years and is currently one-half mile around those creeks and their tributaries.

The County adopted a plan amendment regarding this language and the DEO found that amendment to be in compliance and approved it, at which point the City filed a challenge saying that it was inconsistent with other parts of the Comp Plan, that it was improperly coordinated with the City, and that it would be detrimental to the City's water supply.

Chairman Dodd interjected a reminder that the language in question was specifically in regard to renewing a permit that was already in effect and in good standing, if the permit holder is in good standing when that existing permit expires and needs to be renewed.

Mr. Berntsson continued, saying that there are believed to be six mines that would be affected by this language, not seven – the seventh has already gone through a plan amendment and rezoning process which excluded the area of their property that would have been affected. The County has asked for an expedited hearing which was set for early July; the City said they thought the matter could be settled, based on a report that one of the intervenors had produced. The hearing now is set for Sept 11th.

The City took some time to discuss the language they eventually submitted, and that language would have required any of the mines to give up 25% of the area of their mine to extend their permit, and that was not based on science but was a random number. That concept was rejected, the hearing process got back on track and went forward with depositions. There has been a motion made by one of the intervenors to exclude the City's expert report and testimony because the City's report is based on ALL mines in Charlotte County, including those in Rotonda and on the Lee County border; the report asserts that cumulatively, all these mines have an effect on the City water supply. However, that is not the subject of the challenge to the amendment, which only concerns those six mines within one half-mile of the creeks. That motion, depending on the hearing today, may affect the City's case. Additionally, the County and the intervenors have an expert prepared to report there there's negligible impact to the water supply. Mr. Berntsson also pointed out that mining operations are intended to be carried out over decades, not resolved within the ten years offered by the County's permitting process. He gave some details about how the matter was expected to proceed in the hearing process; he didn't think the hearing process would be concluded in one day, but he said that he did feel the city's challenge would ultimately fail.

Mr. Morris asked if the subject mines were shell mines, and ***Chairman Dodd*** indicated they were. ***Mr. Morris*** asked if anyone knew what negative effect shell mining has on the runoff to Shell and Prairie Creek, indicating that he did not know. Mr. Berntsson referred to one of the reports offered in the hearing process, which indicated that as more surface water is created, more evaporation occurs which has other related effects.

Commission Duffy stated one of the experts, David Brown (speaking as the County's expert), had stated that the mines have very little impart on the city's water supply, and it happens over a long period of time. ***Mr. Berntsson*** indicated that the City's suit is said to have started when someone put a culvert in which created some wash-out that came down the waterway and caused the City to have to close their water plant for a time; the City alleged that the closure was due to mining, but there is no evidence of that.

Commissioner Duffy indicated that the City has sent letters to the County within the last week, proposing a settlement to be based on a discussion between the Commission and the City Council. She indicated she thought an attempt to present all the related scientific material to a large group of non-experts and expect a reasonable discussion would not produce a good outcome. ***Commissioner Duffy*** deplored the "attack mode" that the City has currently adopted. She also stated that the matter was staff-driven, and said she believed the Council had been given misinformation; ***Chairman Dodd*** concurred in that opinion. Further discussion ensued on these points.

CORRESPONDENCE AND COMMUNICATIONS

None.

OLD BUSINESS

Chairman Dodd asked for an update from Steve Smith on Babcock and whether the State has taken over at this point; ***Mr. Smith*** said it would not happen until August 1, 2016. ***Chairman Dodd*** asked if there was anything significant about the transition that the group should know; ***Mr. Smith*** said there was nothing other than typical paperwork transfer and strategizing. ***Mr. Berntsson*** indicated that final site plan approval had been received for the Phase I-A development, and offered some additional comments about a currently-pending request to expand the Special District which as created only covers the lands in Charlotte County because originally Lee County declined to join in.

PUBLIC COMMENTS

Mr. Neuhofer offered comment on the subject of Waters of the United States (WOTUS), indicating that 27 states overall have indicated they would try to overturn the new rules, and 13 of the western states had won an injunction on that point. However, EPA has said that they will enforce the rules in the rest of the country; therefore, it is in effect in Florida. ***Mr. Neuhofer*** spoke about the possible effects on Charlotte County which he characterized as making most land-based activities (building fence, maintaining fence, turning dirt, pulling ditches, applying herbicides or chemicals) illegal. He felt there would not be any immediate enforcement activities, but would eventually impact almost all of agriculture by requiring a permit from the Army Corps of Engineers in order to perform these functions. He did not have any information on what the cost of such permits would be. He offered to gather material together which ***Chairman Dodd*** could then distribute to the membership. He advised members to keep up to date and contact Congressman Rooney's office for information, and also contact other representatives and senators to enlist their support for overturning these rules. Further discussion ensued on the subject; Commissioner Duffy spoke about Commission efforts to get the rules rolled back.

STAFF COMMENTS

Mr. Mitchell gave comments on recent Extension Service activities, including the limited commercial landscape plan, the turf grass and gardening program, and Operation Clean Sweep. He provided hand-outs on each of these subjects.

MEMBER COMMENTS

None offered.

FUTURE MEETING TOPICS

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

GUEST COMMENTS

Commissioner Duffy asked about the identification system for ranches and it was confirmed that it is in place. ***Chairman Dodd*** advised her about how the process works and that there is also a web link. The ***Commissioner*** also noted that the County had introduced a new app for citizens which is available at: Charlottecountyfl.gov\hot topics and scroll down to get the app. The public can use this to lodge complaints or to report matters needing attention in the county and follow County response to the complaint.

Mr. Harrington wanted to know about complaints he had called in, regarding signs in the ROW, especially out by the Bermont intersection. Commissioner Duffy said that this was a Code Enforcement issue which should have been followed up on. The membership as a whole was enthusiastic about having the app to use.

Mr. Berntsson described how he had trouble finding this meeting and the folks on the front desk were not able to assist him, and that he had heard of others that also were not able to get current information from the reception desk as to meeting locations.

Commissioner Duffy announced that the County has a new communications manager, Brian Gleeson. She expects that this new appointment will help the County improve communications with the public. She also mentioned the on-going complaints from the public about how terrible the US 41 corridor looks and the existence of two committees which have been formed to address beautification issues, working with business owners and the BCC; community participation, grant money and contributions are being sought also.

NEXT MEETING
November 12, 2015 at 9:00 a.m. in the Building Construction Services large conference room.

ADJOURNMENT
On Motion made and seconded, the meeting was adjourned at 9:59 a.m.

Approved by the Committee and accepted by
the Secretary:

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