

CHARLOTTE COUNTY PLANNING AND ZONING BOARD
Administration Center, 18500 Murdock Circle, Room 119,
Port Charlotte, Florida
Minutes of Special Meeting
February 2, 2015 @ 1:30 p.m.

Call to Order

Chair Hess called the meeting to order at 1:30 p.m. and upon the Secretary calling the roll, it was noted a quorum was present.

Roll Call

PRESENT

Paula Hess
Michael Gravesen
Ken Chandler
Stephen Vieira
Paul Bigness

ABSENT

ATTENDING

Joshua Moye, Assistant County Attorney
Gayle Moore, Recording Secretary

APPROVAL OF MINUTES

The minutes of January 12, 2015 were approved as circulated.

ANNOUNCEMENTS

None.

PETITIONS:

Habitat Conservation Plan (HCP)

Legislative

Countywide

An ordinance of the Board of County Commissioners of Charlotte County, Florida, amending Chapter 3-5, Planning and Development, by creating Article XI, Habitat Conservation Plan (HCP), providing for intent; providing for definitions; providing for collection and expenditure of fees; providing for enforcement; providing for appendices (Habitat Conservation Plan [HCP] and Incidental Take Permit [ITP]); providing for severability and inclusion in the Charlotte County Code; and providing an effective date. Applicant: Charlotte County Board of County Commissioners.

Staff Presentation

Anthony Rodriguez, Planner II, presented the findings and analysis of the petition with a recommendation of *Approval*, based on the reasons stated in the staff report dated January 19, 2015. This ordinance reflects the approval by the Fish and Wildlife Service of Charlotte County's Habitat Conservation Plan (HCP); the FWS issued a county-wide incidental take permit for scrub jay habitat preservation because it implements the intent of the Comprehensive Plan, in which a specific policy states that the County should administer the scrub jay-specific HCP once it has been approved by FWS. This ordinance

creates that plan and allows property owners to operate under the County's incidental take permit.

Questions for Staff

Chair Hess indicated she had some process questions, and asked Natural Resources staff member Andy Stevens to clarify the points she raised. She noted that clearing is allowed except during nesting season, subject to restrictions and preservation requirements; she asked if that monitoring process is just during development, or is it on-going. **Mr. Stevens** responded that it is just during development, from March through June.

Chair Hess asked if the homeowners would be able to take out scrub even where the dwelling was not placed on the lot; **Mr. Stevens** noted that for those property owners who have paid the fee, it entitles them to mitigate all of their lot less than an acre.

The next question concerned the Economic Impact Statement and the land already set aside for preservation and parks in the County (presently about 40% of all land), and particularly the Prairie Creek Preserve (1,603) which is described as "pristine scrub habitat; **Chair Hess** asked if that wasn't already sufficient for this purpose. **Mr. Stevens** noted that the total lands under preservation in the County was actually 37%, and noted that population analysis by the County's consultants resulted in a recommendation for acquisition of another 1300+ acres between the Prairie Creek and the Shell Creek Preserves as a reserve area.

Chair Hess restated her concern, asking whether preservation lands the County already has weren't adequate for mitigation; **Mr. Stevens** responded with historical data from the time of the County's development by GDC development. He noted that scrub jay habitat needs to be high and dry, but of course GDC developed this type of land specifically because it was the best for residential development to be done without needing fill; therefore, we don't now have adequate scrub to support the scrub jay. The initiative before the Board is meant to streamline the process, more than to question the need to have habitat; this streamlines and reduces the cost of mitigation to the citizen.

Chair Hess asked again whether the 40% of County land already in preservation isn't enough because it's not high and dry; responding regarding the goal of connecting the two Creek lands in preserve to make physical connections between the existing preservation. **Mr. Stevens** offered more comment on the nature of the scrub jay and how it responds to human-created habitat.

Chair Hess emphasized the need to be careful when taking so much land off the tax rolls; all told, she said, nearly 60% of land in Charlotte County is not taxable. She said we need to look at the lands already in preservation to see if they can be used for scrub jay habitat. **Mr. Stevens** indicated he agreed with that.

Mr. Bigness indicated that he also agreed with concerns about how much land is not taxed, noting that the County seems to be on a trend to purchase more land with sales tax money. **Mr. Stevens** added that Ms. Powell who was present today could speak to

the biological aspects of the program; he said that in preparing for the program, staff had assumed that most people would be focused on the economic aspect, but staff had some staggering figures on impacts; the Chair reiterated that she favored reducing the regulatory burden but was blown away by the figure for land acquisition in the Economic Impact Statement. He spoke about equalizing the burden between east and west county residents; he also noted that money accumulated from the fee structure would stay in Charlotte County. **Chair Hess** made further comment about the advantage of reducing the regulatory burden on landowners who just happen to have the scrub jay on their property; but she focused on why we don't use the land we already have. **Mr. Stevens** indicated that question was definitely part of the biological analysis that was taken into account when the HCP was created.

Mr. Vieira asked if there was a fee structure available for the consumer, and if so, he asked that the details be provided. **Mr. Stevens** provided additional details, including that under the current system, each property owner would have to do their own Incidental Take Permit or HCP, whereas under the proposed change the fee is considerably less than currently.

Public Input

Ms. Amber Crooks, Conservancy of SW FLA, indicated she had been working with staff for some time now, and during public comment period has raised concerns regarding loss of habitat balanced against addition of lands into preservation. She mentioned concern over the fact that compensation derived from the program would be going to managing existing preserves, instead of acquiring new lands. Suggestions for future: First, the recommendation that preserved lands named under the HCP be set aside under a conservation easement with FWS named as a third party, to ensure against future intensified uses on those lands interfering with conservation. **Chair Hess** asked what kind of activity disturbs these birds; **Ms. Crooks** responded it would be a FWS determination but would probably be ATVs and things of that nature. It was agreed that passive recreation, children playing in the vicinity or the like, would not fall under this restriction; conservation easements with those uses already established would be fine.

Secondly, the suggestion was made by **Ms. Crooks** that the County closely monitor funding and future land acquisitions under HCP; such acquisitions need to be specifically scrub habitat that are acquired with HCP funds, unlike lands acquired under Conservation Charlotte, which has a separate and distinct mission from the HCP.

Finally, with respect to monitoring, **Ms. Crooks** expressed the hope that county will biologically monitor the scrub jay family growth relative to the HCP as projected, but also monitor development. She noted that, because this is a 30 year plan, things like Comp Plan changes or specific projects whether residential or commercial, be reviewed in light of the HCP. She also mentioned the HCP minimization guidelines, which goes to site specific project review, to be sure impacts are being reduced to the fullest extent feasible.

- **Mr. Gravesen** moved to close the public hearing, second by **Mr. Bigness** with a unanimous vote.

Discussion

Chair Hess asked for any comment from the Board member; none being offered, the Chair reiterated that her primary concern was that regarding lands coming off the tax rolls which she had already raised with Mr. Stevens.

Recommendation

Mr. Gravesen moved that the Ordinance amending Chapter 3-5 of the Charlotte County Code of Laws and Ordinances, creating Article 11, Habitat Conservation Plan, be sent to the Board of County Commissioners with a recommendation of *Approval*, based on the findings and analysis in the staff report dated January 19, 2015, along with the evidence presented at today's meeting, second by **Mr. Vieira** and carried by a unanimous vote.

There being no further business to come before the Board, the meeting was adjourned at 1:52 p.m.