

# **RESTORE Act Advisory Board**

**Administration Conference Room  
18500 Murdock Circle, 5<sup>th</sup> Floor  
Port Charlotte, FL 33984**

**January 14, 2015**

## **Attendees:**

Dr. Lisa Beever, Director, Charlotte Harbor NEP	Excused
Peter Guptil, retired, Visit Florida / Florida Tourism Commission	
Michael Haymans, attorney	
Thomas Hecker, CHEC	
Ed Hill, Executive Director, Englewood Chamber	
Howard Kunik, City of Punta Gorda	
Julie Mathis, Executive Director, Charlotte Co. Chamber	
Annette Nielsen, retired, FDEP	Excused
Kevin W. Russell, Attorney	Excused
Kelly Shoemaker, Deputy County Administrator	
Elizabeth Staugler, Charlotte County	
Caitlin Weber, Conservancy of Southwest Florida	
Mindy Collier – Charlotte County staff	

Gayle Moore, Charlotte County, Recording Secretary

Scott Andrichak, member of the public

The meeting convened at 1:00 p.m. People introduced themselves and then the minutes of the January 7<sup>th</sup> meeting were approved, on the request of Chair.

Ms. Shoemaker commented on availability of the digital version of the minutes (versus handing out a print version) in future; the group then turned to discussion of the agenda items:

Ms. Weber raised the issue of members calling in for a meeting (but not voting via phone call) and Ms. Shoemaker indicated that the County Attorney had given an opinion that this was not a good idea, just from the standpoint of the voting; Ms. Weber asked to clarify whether this opinion was only regarding voting, or any calling-in at all and Ms. Shoemaker said that the ultimate decision had been left to the Board, but that the County Attorney preferred no calling in at all.

There was some discussion on the matter, with Ms. Staugler noting that although it was originally her suggestion, she had reconsidered and realized that she herself would probably not take that option anyway, in the one scenario that had led to the suggestion. Mr. Kunik suggested that anyone who knew they would be late or absent could give their talking points to Kelly before the meeting. Mr. Haymans voiced the opinion that people should be able to call in, for the considerable value of listening to the conversation. Ms. Mathis said she thought that people should be able to listen in but not to ask questions, and she asked if a motion was

required on this question. Ms. Shoemaker said that just the Board members' opinions were required, noting that in any event it wouldn't likely happen often. It was decided that listening in only would work and the group indicated agreement with that proposition.

The group next moved on to consideration of the list of potential projects that had been distributed to members after the last meeting. Mr. Kunik commented first, asking Ms. Shoemaker where these suggestions had come from; Ms. Shoemaker indicated that it was a very informal list begun in late 2011/early 2012, based on suggestions given by staff, the Commissioners and others including City Council members. That original list has changed shape over time, this version being considered "the finalized draft list". Ms. Shoemaker said she had since added to this list those other projects which had already been submitted, via the DEP process for submittal; so, in sum, it is a combination of these sources.

Ms. Mathis asked about the ones that have already gone to DEP, whether they are to be evaluated also; Ms. Shoemaker said yes, because this group will need to decide if those projects should be included in the multiyear implementation plan (MYIP). Ms. Shoemaker commented that she sees the MYIP as being like a Capital Improvements Plan, where plans have been vetted and are just awaiting availability of funds that match the project requirements.

Ms. Weber spoke on the MYIP, suggesting the best way forward for the group's evaluations was to establish the criteria first; Ms. Staugler agreed with this approach. Mr. Hill also agreed, saying that it made sense to establish the criteria first and then see which projects meet them; this would also help establish a format for submissions. Ms. Weber noted that one of the requirements of the MYIP is for public involvement in developing that plan, and opening up the application process would also be a way to involve the public.

Mr. Guptil asked for clarification regarding the "buckets" and the submission of projects to the Council of Gulf States; Ms. Weber said this committee would be reviewing projects for the Direct Component (bucket one funding) under the MYIP, while the Council concerns bucket two. This group is reviewing projects that would be funded by Charlotte County dollars, but as Ms. Weber noted, to obtain that money, the MYIP would first need to be approved as meeting the RESTORE Act.

Mr. Kunik motioned that the Board rearrange the agenda in order to address criteria first, and then move on; Ms. Weber seconded and the Board accepted it on unanimous voice vote.

#### *Discussion on Project Criteria*

Mr. Kunik had created a document to assist with the discussion; he commented on the rationale for his approach, which was to take Collier County as an example because of their geographical proximity and their similarity to Charlotte County. In creating his document, he worked with the Collier County materials, rearranging and editing them a bit to better suit circumstances in Charlotte County; he went on to discuss the categories in the form. He noted that in the Collier County example, if a project had funding in addition to RESTORE, they would not further consider it and he said he disagreed with this approach, because he felt that additional funding would simply make a project *more* viable and more likely to be completed. Mr. Hecker said he agreed that matching funds would typically be considered a good thing; Mr. Haymans also agreed.

Mr. Hill asked if there was any discussion contemplated about the distinction between projects being fully funding or receiving "seed money" funding.

Mr. Kunik went on to discuss the third section of his form which deals with the 'focus area goals' established by the Commission. He noted that had visited the County's website where these goals are enumerated, and which they use to prioritize proposed actions and projects; so if a project submitted does not meet any County goals, they be considered.

Ms. Staugler debated with herself the question of whether any of the County's goals address sea life habitat, fisheries, hydrologic connections, oyster restoration and similar issues; if they do not, and meeting those County goals is considered a rule, then lots of opportunity would be lost. Further discussion ensued as to whether and how these goals related to the water; it appears to be mostly with regard to potable water sources. Ms. Shoemaker noted that the bullet list of County goals was developed primarily for staff, and she suggested that if the group wants to consider water resources in a different way than as presented in these County goal bullet points, that's a conversation you could have. She also pointed out that these bullet points will be changing soon, as part of the next two years' planning. So actually, this might be a good time to suggest changes. Ms. Mathis posed a question to Mr. Kunik on the source of the verbiage under Project Ranking; Mr. Kunik cited both Collier County and the RESTORE Act.

Ms. Weber commented that Collier County awards an equal amount of points to each bullet item, so that the more allowable uses a project meets, the more points would accumulate. She further pointed out that there will be projects that have secondary benefits (e.g., a restoration project that also promotes tourism).

Mr. Kunik returned to discussion of the initial review, and what to do regarding the Charlotte County goals; for instance, he pointed out that water resources could mean anything. Some discussion ensued on whether the focus of that goal is only potable water; Mr. Kunik pointed out that if the group uses the strict bullet point definition, this list would be reduced considerably. Mr. Haymans reminded the group that RESTORE is primarily concerned with the ecology, not potable water, although of course those things overlap. Discussion of the bullet points continued.

Ms. Weber indicated that with regarding to the pre-screening, the group could simply consider whether a project is valid under the RESTORE Act; then consider whether the project is compliant with federal/state/local regulations and if so, then within a subsequent review process, consider the County goals. Mr. Kunik commented that he had added these goals because, for instance, if a project to renovate the County Administration building was put forward, it would have to be considered as to whether it met any of the County goals. Some members felt there were in fact County goals such a project would meet, but as Ms. Mathis pointed out, it would not meet the RESTORE Act goals, and therefore wouldn't be considered. Ms. Mathis agreed with Ms. Shoemaker's point that the verbiage concerning water should simply read: "Ensure quality and quantity of water resources." Discussion on this point continued.

Ms. Shoemaker pointed out that, for the County, the natural resources part comes under Quality of Life, so all these ecology-related items would be handled there. The decision was made to leave in the goals but to remove the bullets format.

Mr. Haymans asked how these County goals relate to the Comprehensive Plan Goals, Objectives, and Policies (GOPs); Ms. Shoemaker indicated that the GOPs are taken into account under both the Growth Management and the Quality of Life sections. She said that these goals, specifically the statements after each title, have been in place for about four years, and they are the drivers for the overall organization; also, staff is evaluated on them. Mr. Haymans said he just wanted to be sure that if we meet these, we are also meeting the Comp Plan, which we shouldn't forget, and perhaps should mention it specifically. His conclusion was that the Growth Management section does this.

Mr. Kunik proposed a Motion: that the initial review checklist include the draft "as is" to do initial pre-screening. If a project doesn't at least meet these, can be thrown out. Ms. Weber restated the idea: does a project meet the RESTORE act and County Goals, but asked whether that determination is appropriate later in the process or in the pre-screening. The remaining items (additional funding, etc.) would be considered later in the process. Mr. Haymans seconded the motion, which was then restated as: In the initial review, does the project meet any of the RESTORE Act allowable uses and does it meet established County Goals? If neither, then the project is rejected in pre-screening.

Ms. Weber asked if the completeness of an application is important to mention here; after some discussion it was decided not to include that criteria. The Motion as seconded was passed unanimously.

Mr. Kunik resumed discussion of the form he had produced; with reference to the second part, he noted that, so far, there are no points, and said that here's where we might want to assign them. During evaluation, the first consideration are the RESTORE Act criteria; then, evaluate what County-established goals does the project align with. Next, examine what the overall quality of the project is; he stated, that's where it begins to get subjective. Another question from Collier County is: Does the project add benefit when partnered with other County projects? Projects with such a multiplier effect might get additional points. Mr. Haymans questioned whether it should be limited to other *County* projects, when there may be suitable projects initiated by other agencies; Mr. Kunik agreed that was a good point and Ms. Shoemaker noted the group could distinguish between "the County" and "county government". And the final item asks about the availability of other funding sources that when added with RESTORE Act allocation make the project more achievable.

Ms. Staugler commented on evaluating the project, noting that in the FAQs, there is a section where, if a project involves natural resources, has to use "best available science"; she suggested that should be added to evaluation criteria. Further discussion ensued on this point, including its broad applicability, and whether it should involve points or just be a simple yes/no or "n.a." indicator. Mr. Kunik asked who would determine if something actually is "best available science" and Ms. Staugler indicated that there are ways to tell, and the project application should have a section for cited peer-reviewed literature, etc.

Further discussion summarized the ranking progression:

- Ranking against allowable uses (RESTORE)
- Ranking against County goals
- Ranking quality of project
- Ranking how it provides benefits when combined with other projects
- Ranking with regard to availability of matching funds

Ms. Weber next addressed the idea of “realistic deadlines”, noting that the group wouldn’t necessarily want to preclude long-term projects, and she asked for others’ thoughts on this – specifically whether the group would be establishing a time frame.

Mr. Kunik responded, saying that last week the group had talked about putting together a multi-year plan and 5-6 years was mentioned as a time horizon for this work; he continued, noting that if one of these projects is something that may not happen for 25 years, would the group really want to consider that project. Mr. Hecker commented that any cost guesstimates would be way off in that sort of time frame. Mr. Kunik felt the group had a limited amount to work with, and asked what could realistically be accomplished within our 5-year time frame. There was no dissent to this concept.

Mr. Kunik proposed a new motion: When the ranking is actually done, the categories to be considered should be: 1) which allowable uses does the project meet; 2) what County-established focus area goals does the project align with; 3) does the project add benefit when partnered with other county projects; 4) are there other funding sources which, when added with RESTORE Act allocation, make the project more achievable. Ms. Mathis seconded the motion. Mr. Haymans raised the “overall quality” language, and Mr. Kunik amended this motion to include “5) what is the overall quality of the project”. Ms. Mathis renewed her second. The motion passed on a unanimous vote.

Turning next to the issue what should be done with points, Mr. Kunik looked for suggestions. Mr. Haymans suggested the group should think about this aspect in terms of the structure that has been established today, and come back with recommendations. Ms. Shoemaker offered to work up a sheet in the same style as the Collier County example, leaving blanks the group can use to work through this at the next meeting; she indicated she would try to have this to everyone well in advance of the next meeting.

Ms. Mathis asked how the rankings for sales tax projects were done; Ms. Shoemaker couldn’t immediately recall. Ms. Mathis felt the Collier form is too complex, and asked that it be kept simple, specifically if the group could do 100 points instead of 165 points, which is what Collier did. There was no further discussion on criteria.

#### *List of potential projects*

Ms. Weber called for any comments on the project list in light of the discussion on criteria. Mr. Kunik commented on the amount of money represented by the projects already here, e.g. the impaired waters of Charlotte Harbor, and he asked to have clarified that, at present, the only *assured* funds are just about \$600,000. Ms. Shoemaker confirmed but reminded the group that there could be more and in all likelihood there will be, which is why this Board has been convened.

Ms. Shoemaker then offered a recap of the basics, including the submittal of five projects from each of the five states to the Gulf States Council, and there is as yet no word on those projects; once we know more about those, we’ll know what the possible future releases of funds will look like. There is a possibility that the word will come back on these first projects by about April. Ms. Staugler asked for clarification on an issue connected with the funds which come to Charlotte County. Regardless of the project format, the County is still the responsible party for handling all the collateral budget work; Ms. Staugler asked, with that in mind, is there a target number of projects that would get recommended that would exceed the

County's budget for doing the collateral work, and thereby possibly diminish the value of the money coming in (she noted that federal grant money always has a lot of reporting requirements.) Ms. Shoemaker said that aspect had not yet been considered, but it might mean a need for additional resources.

Mr. Kunik commented that as he looked at this list and criteria, and considering a minimum of \$600,000 – 800,000 available, he felt that if there was one project to be chosen and the County wanted to move forward and make an immediate impact, that project would be the TDC visitor's center on I-75. Mr. Hecker agreed, especially given that it would generate tourism dollars.

Ms. Weber expressed her concern that this is not yet the appropriate time to review and select projects, but that the group really should focus on criteria first. Mr. Kunik said he agreed.

Mr. Haymans, on the other hand, thought that more review of this list of projects could be useful; for instance, he asked, how does the Burnt Store Rd. project assist with meeting the nine criteria regarding ecological improvements. He said he agreed the group should not make decisions until the criteria has been established. Also the idea of recommending several smaller projects vs one big project is a discussion worth having now. Further discussion ensued on this point, with Mr. Kunik mentioning the Spring Lake sewer project as one that does meet some of this criteria, the Charlotte Harbor Riverwalk or the River Rd. evacuation route.

Ms. Weber suggested the group set a timeline to establish by what point submittals should be in; Messrs. Hecker and Hill both mentioned budget information which should be part of the submittal information.

Mr. Kunik pointed out that there is an application form here, and suggested that next week's agenda should include discussion of developing our own form. Ms. Weber agreed, but Ms. Mathis felt the group didn't need to reinvent the wheel, pointing out that this form works and people have already submitted on it. Ms. Staugler suggested that the form could be improved so that our projects have a better chance and are based on criteria we select. Mr. Hill stated his preference that the applicants should tell the group how they meet criteria, instead of the group having to figure it out. Ms. Mathis asked for further clarification, based on a notional situation where Joanne Vernon's application on the old form has to be re-done for the new form and imagining that perhaps she would not want to take the time to do that; Ms. Mathis asked, would that mean she is out of the running then? Ms. Staugler suggested that she could stay in but she'd be missing out on getting any quality points if she's not using the accepted criteria. Further discussion ensued on these and related points.

Ms. Collier offered comments about "bucket 3", which is strictly the state's allocation for which the state has to develop a plan, just as the County does. She noted that there are many of these bucket 3 applicants, and there is some thought that many could end up on that state [?] plan. Mr. Kunik commented that if these five people want to be considered, they would have to submit again, like it or not.

Ms. Shoemaker reminded the group that the idea behind the MYIP is that you can use it for ANY OF THE BUCKETS whenever any of the money is released. And if the state takes any of our projects onto their list, then we can cross those projects off our list.

Mr. Guptil, following up on something Mr. Kunik said earlier, agreed that this is a lot of effort for a half-million dollars; so hopefully there will be more than that. At this point, we are just lining up the proposals and opportunities, so they are in the pipeline with that potential 'more' comes through. So, is there any need for us to assign them to any particular bucket? The consensus was that there was no such need; Mr. Kunik said the group should just be recommending priorities.

Mr. Kunik requested that the next meeting agenda include a discussion of the points and the application form. Ms. Mathis requested a press release advising the public what the group is doing, and offers the application form. Mr. Kunik asked for someone to take a stab at putting a draft application form together, and Ms. Weber said that she would do that. It was agreed that the draft would be emailed it to Ms. Shoemaker for further distribution to the group.

Mr. Hill asked if there was any idea how many projects might still be out there; Ms. Shoemaker said she would look to the group members for feedback on that. Mr. Hill asked how much time should be allowed, noting that there has to be a cut-off. Further discussion ensued on this topic, with Mr. Kunik wondering how there could ever be a list of priorities if the matter remained open indefinitely. Ms. Mathis agreed. Based on the example of CIP plans being amendable, Mr. Kunik suggested that it should be reasonable to set a limit. Further discussion ensued on customary application timelines; perhaps some allowance would need to be made for science- based projects.

Mr. Guptil noted that so far everything has been put together by government entities, but once this matter goes before the public, we need to communicate a great deal about this process to get relevant feedback. Mr. Hill commented that businesses may already know because they will have submitted claims but Mr. Guptil felt that claims are different that requesting a grant. The question was raised whether there was anything legal that prevents business from submitting claims and asking for grants; Ms. Collier said she would research that. It was generally agreed that the effort should be made to publicize this. Ms. Weber confirmed with the group that this is also something for the next meeting.

Ms. Weber called for any further discussion on the list of potential projects; Mr. Haymans suggested that members of this board should talk to the groups we work with to see if there is interest, noting that CHEC would have suggestions. Mr. Haymans and Mr. Hecker acknowledged that in that case, they would have to make arrangements so as not to break sunshine law.

Ms. Weber summarized the items that had been agreed upon for the next meeting: she would bring a draft application form for discussion; Ms. Shoemaker would put together a point systems form; discussion of ways to publicize the funding process.

A Motion to adjourn was offered by Mr. Kunik, second by Mr. Hill; the meeting adjourned at 2:15 p.m.