

SOUTH FLORIDA REGIONAL PLANNING COUNCIL

Minutes

February 1, 2010

The South Florida Regional Planning Council met this date at the Council Offices, 3440 Hollywood Boulevard, Suite 140, Hollywood, Florida. The Chair, Councilmember Scuotto, called the meeting to order at 10:35 a.m.

Chair Scuotto informed the Council that there was not a quorum present so the meeting would be conducted as an Executive Committee meeting until such time a quorum is present.

Mr. Samuel S. Goren, Legal Counsel, explained that the meeting would be conducted as an Executive Committee meeting and that the members present who are not members of the Executive Committee may participate in the discussion, but may not vote. Once the full quorum is present, the meeting can be conducted as a full Council meeting.

Chair Scuotto stated that Council members Asseff, Brook and Lieberman were participating via phone.

AGENDA ITEM ONE: Pledge of Allegiance

AGENDA ITEM TWO: Roll Call

Councilmember Patricia B. Asseff (via phone)
Councilmember Michael Blynn
Councilmember Scott J. Brook (via phone)
Councilmember Suzanne Gunzburger
Councilmember Joseph Kelley
Councilmember Ilene Lieberman (via phone)
Councilmember George Neugent
Councilmember Stacy Ritter
Councilmember Joseph Scuotto
Councilmember Katy Sorenson
Councilmember Paul Wallace
Councilmember Sandra Walters

The following Ex-Officio members were present:

Ms. Joan Goodrich, representing the Broward Alliance
Mr. Tim Gray, representing the Department of Environmental Protection

The following Council members and Ex-Officio members arrived after roll call:

Councilmember Ilene Lieberman
Councilmember Marta Perez
Councilmember Jose Riesco
Mr. Gary Donn, representing the Florida Department of Transportation
Mr. Elbert Waters, representing the South Florida Water Management District

Councilmember Perez arrived at the meeting.

AGENDA ITEM THREE: Minutes of previous Meetings

Councilmember Walters moved to approve the Minutes from the previous meeting. Councilmember Neugent seconded the motion, which carried by a unanimous vote.

AGENDA ITEM FOUR: Project Reviews

a) Intergovernmental Coordination and Review Report

Councilmember Gunzburger moved to approve the Intergovernmental Coordination and Review Report. Councilmember Neugent seconded the motion, which carried by a unanimous vote.

AGENDA ITEM FIVE: Development of Regional Impact (DRI) Program

a) DRI Assessment Reports

None

b) Development Orders (DO)

None

c) DRI Status Report

Information only

AGENDA ITEM EIGHT: Reports

f) FY 2008-2009 Audit Report

Councilmember Gunzburger moved to approve the FY 2008-2009 Audit Report. Councilmember Walters seconded the motion, which carried by a unanimous vote.

AGENDA ITEM SIX: Proposed Local Government Comprehensive Plan/Amendment Reviews

a) Proposed Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Updates Amendments-None

b) Miami-Dade County

Ms. Karen Hamilton, Council Staff, gave a brief synopsis of the Miami-Dade County staff report.

Mr. Gary Donn and Mr. Bert Waters arrived at the meeting.

Councilmember Wallace recommended that the Council discuss each Application in the package separately.

Ms. Dawn Sheriffs, representing Clean Water Action, stated that she was present to speak on two Applications. The first, she stated was Application No. 4. This seeks an amendment for property outside of the Urban Development Boundary (UDB), even though there is not enough proof of the need for this. This was demonstrated in the review done by Miami-Dade County staff. The second issue with Application No. 4 is the shape of the property, it is not contiguous with the UDB on the western side, only on the northern side, and it would be leap-frogging agricultural land. Ms. Sheriffs stated that she also wanted to address Application No. 5. There has been a large number of applications for real heavy industrialization in areas surrounding Everglades National Park, thereby hindering the significant restoration plans that are underway. There has been illegal parking in this area for a while now and this Application seeks to make an allowable use for something that is already illegally practiced in the area. We ask that the Council follow the staff recommendation on both Applications.

Councilmember Riesco arrived at the meeting.

Mr. Richard Grosso, Everglades Law Center, representing the Tropical Audubon Society and the National Park Conservation Association, stated that they agree with the staff recommendation on Application Nos. 4, 5 and 6. Cumulatively you are looking at three Plan amendments that are completely inconsistent with everything that the *Strategic Regional Policy Plan (SRPP)* and the Miami-Dade County Plan are trying to do. These amendments introduce very questionable land uses that could impact well fields, water quality, and create physical conflicts with Everglades restoration. There has not been any demonstration that these are needed. The Ferro amendment (Amendment No. 4) is basically a carbon copy of the Lowes amendment that was recently found to be not in compliance. It is surrounded on three sides by agriculture, and cannot go anywhere under the Growth Management Act. Regarding the Florida Power and Light (FPL) amendment, Option No. 1 should not even be on the table, relative to Comprehensive Everglades Restoration Plan impacts. The truck stop amendment is a pretty questionable land use given the water resources in that area. He asked that the Council follow the staff recommendation.

Mr. Felix Lasarte, on behalf of F.I.R. Investments Corporation, here to speak on Application No. 5. This is not an application for a UDB expansion, currently in this sub-area of the County there are a lot of intense uses, and we wanted to allow commercial vehicle parking along a 1,500 foot strip along Okeechobee Road. At the Miami-Dade County Commission hearing we had expert testimony that spoke to the water quality issues and hydrological barriers, such as the Okeechobee Canal. There is currently truck parking there, used by the asphalt company and the mining company located nearby. Again, this is not an application for a UDB expansion.

Councilmember Walters asked if a formal facility would have to be permitted through the environmental permit process. If permits were requested, it would be reviewed through a water quality process.

Mr. Lasarte responded yes, we would have to do environmental quality controls in order to do this.

Councilmember Asseff asked for clarification on the temporary roadway improvement for FPL.

Ms. Jena Meyer, FPL Senior Environmental Scientist, stated the Application is regarding temporary roads needed for construction of the Turkey Point 6 and 7 facility. Ms. Meyer noted that in 2007, FPL received a mutual use permit for Turkey Point 6 and 7 and received a need determination from the Public Service Commission (PSC). The roadways that are being proposed are only temporary for construction and those areas of the road that will be expanded to four-lanes will be brought back to two-lanes when construction is completed. She also stated that the purpose of the temporary roads is to eliminate any delay in operational traffic due to construction traffic. The two groups of traffic need to be separated for safety,

evacuation and security purposes. During peak construction time, there will be just less than 5,000 cars and trucks going back and forth from the plant. These roads have been aligned along existing public rights-of-way, and the other is along an FPL owned, transmission line service road. There were some environmental concerns raised by Miami-Dade County, and they recommended the second road option. At the time of the County Commission meeting, FPL had not had an opportunity to review all of the aspects of it; she said they have been diligently working trying to finalize their analysis. Ms. Meyer continued, the preliminary analysis indicates that the wetland impacts associated with the roadways is virtually a wash. There is actually four acres greater impact along S.W. 344th Avenue than there is on S.W. 359th Avenue, which runs along FPL land.

Councilmember Lieberman arrived at the meeting.

Councilmember Asseff asked if there was any way to exclude this.

Councilmember Neugent stated that there seems to be a lack of justification, and insufficient capacity why this information was not provided through communications with staff. Why was there no discussion of this particular issue, he asked.

Ms. Meyer stated that FPL submitted volumes of information with its package, and that Joaquin, FPL's traffic consultant, can address that question.

Mr. Joaquin Vargas, Traf Tech Engineering, Inc., traffic consultant for the project, stated that they have been working with Miami-Dade County for many months and clearly there is a need for these improvements, as he referred to maps of the project site.

Councilmember Gunzburger asked for clarification on the number of trips generated by the construction project.

Mr. Vargas stated that there are 5,000 trips. He said the existing facility has over 1,500 employees, so the existing employee traffic plus the additional 3,000 trucks associated with the construction will total up to about 5,000 trips.

Councilmember Neugent stated that the consultants also had a responsibility to work with Council staff who report back to the Council members so that the Council members can make a decision. The staff report says that the applicant did not show that there was sufficient capacity.

Mr. Vargas stated that there was sufficient data and analysis that was submitted to justify the need for these temporary roadway improvements.

Councilmember Wallace stated that he obtained a copy of a letter sent to Ms. Dekle, the Executive Director, by FPL. He obtained this letter by calling the SFRPC offices. The letter is four pages worth of corrections to the staff report.

Ms. Dekle stated that the letter was received after the agenda package was completed; this is why it was not part of the agenda item. She added that it was part of the ongoing discussions related to this item.

Chair Scuotto requested copies of the letter for all of the Council members.

Councilmember Blynn moved to approve the staff recommendation for Application Nos. 3, 8 and 9. Councilmember Lieberman seconded the motion, which carried by a unanimous vote.

Councilmember Lieberman moved to approve the staff recommendation on Application No. 4. Councilmember Neugent seconded the motion, which carried by a unanimous vote.

Chair Scuotto stated that the Council would now resume discussion of Application No. 5.

Councilmember Sorenson stated that the staff report says that the applicant failed to provide adequate justification for commercial vehicle storage outside the UDB, and it also shows that there is sufficient capacity within the UDB. There is insufficient information to determine the impact that this amendment would have on the roadway conditions and as well as groundwater quality. She stated that she hopes that the Council sticks with the staff recommendation.

Councilmember Sorenson moved to approve the staff recommendation on Application No. 5. Councilmember Lieberman seconded the motion.

Councilmember Walters stated that the representative for the applicant stated that this was not an application to expand the UDB. She requested that staff address that.

Ms. Dekle stated that there was a member of Miami-Dade County staff that could address the question.

Ms. Paula Church, Miami-Dade County Department of Planning and Zoning staff, stated that this was not an application for expansion of the UDB, however it is an increase in use in a specific sub-base. It is a text amendment to allow truck parking in an entire area outside the UDB, that increases the use, but does not move the boundary.

Chair Scuotto asked what County staff recommended to the County Commission.

Ms. Church stated that County staff recommended denial.

Chair Scuotto asked what the County Commission determined.

Ms. Church responded that the Commission transmitted the Application to the Florida Department of Community Affairs (DCA) with a recommendation of approval.

Councilmember Ritter stated that the staff report shows that it was adopted with changes, what changes were made?

Ms. Church stated that the applicant made changes in the area that was allowed the use. Originally, it was the entire C-9 basin; it has now been reduced to 1,500 feet of Okeechobee Road.

Councilmember Lieberman stated that this was the transmittal stage for this item. The staff objection states that there are some environmental impacts that we have not gotten any information on. The purpose of transmittal is that DCA is going to get the Council's recommendation and several others and it is going to look at the issues that have been raised. If the issues are not raised at this point in time, then they cannot be raised at the adoption stage. It will come back in the Objections, Recommendations and Comments (ORC) Report as to whether there are impacts or not. There is no need to lose the right to comment on these issues. This is why I seconded Councilmember Sorenson's motion, she stated.

Councilmember Walters stated that it was unfortunate when applicants do not take the opportunity to prepare itemized, specific responses when the staff reports come out and provide those to the Council.

This staff report was sent out two weeks ago, and it continues to happen that these discussions take place during the meeting, when a response could have been provided in a timely fashion. She stated that she sees some merits of the project, but she also agrees with Councilmember Lieberman that raising these issues in hopes that they will be addressed as this moves along in a more documented fashion is probably a better way to go. Councilmember Walters stated that the applicants, in the future, should take the staff reports and prepare bullet points in response to the staff findings and provide that in a timely fashion so that the Council would have time for adequate review.

Councilmember Kelley asked if the Council could mandate that.

Mr. Goren stated that the rules that govern the Council actually promote exchanges of information before public meetings. Because this Board does not issue permits, ex-parte communications can occur; as a result the distribution of information may happen disproportionately.

Chair Scuotto stated that it is common for new information to come in at the last minute. He requested that staff, though it does a good job of getting this information to the Council as purple sheet items, try to bring them to the Council's attention in the future. He stated that there was a similar issue in Sunrise, where the Florida Department of Transportation thought that it was in the best interest of commerce to allow a truck parking site. The City of Sunrise fought against it and lost. The Council is not trying to hold back commerce, but is looking at all of the issues involved.

The Council unanimously approved the motion made by Councilmember Sorenson and seconded by Councilmember Lieberman to approve the staff recommendation on Application No. 5.

Councilmember Lieberman requested clarification on Application No. 6. The letter from FPL says that the temporary roadway improvements are only for construction traffic, not for public access. The staff recommendation is based on public access; that is the key issue. The letter states that the temporary improvements would provide access for construction vehicles and other construction-related traffic to and from FPL's proposed expansion site, so there would be no public access.

Ms. Dekle stated that staff received this letter on Friday, January 29th. Council staff prepared a response to the concerns that were raised. Staff has had discussions with the applicant, even as late as this morning looking for language. Basically the concern is that there may not have been as much detail in the actual amendment itself to respond to some of these issues. The point has also been made that some issues will be further managed at the permit process. Staff is committed to continue its work with FPL and its representatives through the rest of the development of the amendment.

Councilmember Lieberman stated that the issue is that the transmittal from the Council should contain accurate information. If this is really a temporary, construction related easement, and we are talking about public access to a construction easement, then we are transmitting incorrect information. She suggested that it be revised, if and only if there is documentation that shows that this is only a temporary construction roadway.

Ms. Dekle stated that staff observation was that the Application was not clear on that point. This resulted in the finding in the staff report. Further information has been provided that is more specific to some of those points, and the applicant will most likely include that as this goes forward.

Councilmember Sorenson stated that there seems to be a disconnect. With no rate increase by the PSC, FPL said there was no money for Turkey Point, yet all these approvals are still being sought. It makes you wonder what is going on here. It is estimated to take nine years for construction, so I would

question, she stated, whether or not this is really temporary. We really do need to look at all of the impacts. If we look at this as transmittal and approve the staff recommendation, then we will have an opportunity to get the information from DCA, and it raises the issues that need to be raised.

Councilmember Neugent stated that his comments are parallel with Councilmember Sorenson's. He stated that he received this on the 22nd, this information was available to the applicant and this issue could have been resolved between staff and the applicant. Now here we are getting new information. It would seem to me, he stated, that the applicant would be much more diligent in addressing these particular issues through staff, who can then report to the Council. It does not seem like that has happened.

Councilmember Riesco stated there is a letter, received on January 29th, which is pointing out some severe inconsistencies with what staff is saying in the staff report. The report states that the construction will last from 2011 until 2020, assuming everything goes well. What happens if it does not, what timeline are we looking at, will it take until 2040?

Councilmember Wallace stated that the staff report appears to be an analysis of a development plan almost like a Development of Regional Impact or something, having to do with all of these public facilities, transportation plans and so forth. If there are inaccuracies in the staff report, they need to be dealt with. FPL raises inaccuracies in almost every paragraph of the staff report. This is a big construction project, and this is a temporary construction road that will be built, maintained, and deconstructed by FPL. I think, he stated, that staff has misconstrued the nature of the assignment. This a construction road and this analysis just does not apply. The County Commission approved the text amendments, which included the temporary roads, but withheld their opinion on which option to choose. Two points to address, there are four pages of inaccuracies that need to be addressed, and the entire project analysis does not apply to a construction road.

Councilmember Walters stated that her concern is with the timeframe of this. It is my understanding that the Federal review process has not even started yet, she stated. Nine years is a long time for construction; it is about balancing issues. It really comes down to the fact that staff is reviewing it based on the fact that it is a Comprehensive Plan amendment. The overall impacts of the change need to be considered above and beyond this particular project as a Comprehensive Plan amendment and there is a procedure for doing that. It is a very confusing issue, and she hopes that a lot more information comes out before the time of adoption.

Councilmember Asseff stated that she agreed with Councilmember Wallace, this is a temporary road. After listening to the President's address last week, I think we are looking toward nuclear power plants and we should give them every chance. This road should be excluded from this Goal at this time. There is quite a bit of evidence in the letter and we need to look forward.

Councilmember Lieberman stated that she agreed that the staff analysis was done as though this is an actual roadway. This is a temporary construction road that will only exist for nine years. The entire analysis is based on public access. If there is no public access, then the key to the issue is that there is less environmental impact with Option No. 2. If there is no public access on this road then why is the Council weighing in on this other than for environmental impacts. If the information is wrong, then it undermines the effectiveness of this Council. The staff report needs to be updated with the correct information.

Councilmember Neugent stated that he is taking a position to agree with staff. Nine years is not a temporary road. I can see in the future someone saying, "Well, this road has been here for 10 years, why

don't we keep it open?" This is a Comprehensive Plan change. What was pointed out by Councilmember Walters also adds to the permanence of the debate. Until someone changes my mind about staff's position, he stated, I'm on staff's side.

Mr. Bob Cambric, Council staff, stated that Councilmember Lieberman asked a question about inaccuracies; there is one thing in the staff report that needs to be changed, it is in the sentence that says that the temporary-permanent roads will run between the expansion and the existing plant. Staff made a mistake on that; the roads are not intended to run between the construction area and the existing area. Everything else in the staff report is based on the data and analysis that was received by staff. Any other representation, made by FPL or anyone else made after the fact, staff does not consider as being part of the amendment package. The comments raised about the road being solely temporary are not clear in the amendment package. This is a County amendment, where the County is saying that it is going to propose roads, and under Council requirements, staff is supposed to look at how this will impact the Capital Improvement Budget, infrastructure, and natural resources of significance. If there are additions that the applicant is going to make, then those can be made and at the adoption stage. Staff will review those and that would augment the report that the Council has now. Based on the amendment package that was received, there was one inaccuracy and that was the remark regarding the temporary and permanent roads are intended to run between the existing plant and the plant expansion.

Councilmember Wallace asked for clarification of Mr. Cambric's comment that there was only one inaccuracy in the staff report.

Mr. Cambric responded yes, there was one error and the rest was a difference in professional opinion.

Councilmember Wallace asked what about the recommendation of the County.

Mr. Cambric stated that Council staff provides the Council with information about what the local government has done, but its analysis is based on the *Strategic Regional Policy Plan (SRPP)* that the Council adopted. The amendments are reviewed on the basis of consistency with the *SRPP*; it is not based on the review done by County staff.

Councilmember Gunzburger stated that the reference to bicycle and pedestrian is not accurate. If this is meant to be a construction road, there will not be pedestrian or bicycle traffic. That recommendation should be struck from the report.

Councilmember Asseff asked if FPL is not granted the temporary road, how will anyone get to the facility.

Councilmember Wallace suggested that the Council go through each one of the objections raised in the letter. He then raised the issue of capital improvement costs, as raised in the staff report; FPL seems to be pretty clear about paying for the construction, maintenance and deconstruction of the roadway.

Councilmember Neugent asked for clarification on the Miami-Dade County Commission finding.

Ms. Church stated that the Commission decided that the need for a temporary road was great enough to approve the text portion of the Application; the options were transmitted without recommendation. The Commission agreed with the concept of the temporary road for construction of the plant.

Mr. Jeffery Berkow, representing FPL, stated that he was going to try to address some of the questions raised by the Council and then he had a prepared statement. He stated that he would include a copy of

the transmittal document with the County resolution and the minutes that confirms what Ms. Church presented, which was that the County Commission recommended in favor of adoption of the text amendment. The County transmitted with no recommendation on the two roadway scenarios. As soon as the staff report was posted on the Council's website, we began to review and analyze it. We began to prepare the remarks that are in the FPL letter and finalize that on Wednesday. The letter had to go through some internal review through FPL. Our representatives tried to get a meeting with Carolyn and her staff as quickly as possible, but that could not be arranged until Friday. We did the best we could under the circumstances.

Councilmember Neugent asked so there is no coordination or communication when we are coming to these proposed staff recommendations that you can address as we evolve into a final decision. There is no communication whatsoever taking place while staff arrives at this unilateral decision?

Mr. Berkow stated that there were some discussions, but I'm not sure they were conclusive. In retrospect, we probably could have done a better job of that. To answer the question about the length of time that the construction will take and what happens if it takes longer, the construction roads are intended to stay in place during the construction period of the plant. The biggest obstacle will be getting the approvals from the State of Florida and the federal government. We cannot turn the first shovel of dirt, whether it is on the plant site or the temporary roadways, until that occurs. Once we have those approvals, then we go forward full speed ahead. However long the construction period takes is how long we will need those roads. We do not foresee that lasting longer than 8-10 years. The application is very clear, all the roads are temporary. All of the public roads will be returned to the state in which they exist today. They are all proposed, in both options, to be constructed within existing road rights-of-way or zoning road rights-of-way, with one exception, which is a private, transmission line roadway, S.W. 359th Street that is owned by FPL. That roadway extends from 137th Avenue to the plant site and that particular roadway will be returned to a two-lane status when construction is finished, however there are requirements in the approval issued by Miami-Dade County that we mitigate wetlands impacts, there is a requirement that any access roads be required to maintain sheet flow through culverts, etc. He again stated that no shovel of dirt can be turned until the environmental permitting review has occurred at the state level. The Florida Department of Environmental Protection, the South Florida Water Management District, and Miami-Dade County Department of Environmental Resource Management will all participate in that review. There is also an environmental review at the federal level that includes the Army Corps of Engineers. Mr. Berkow stated that FPL disagrees with Council staff as indicated in the letter; there are several Goals and Policies that this application strongly promote. He then stated that Application No. 6 is consistent with Goal 4, because it separates construction traffic from operating traffic that now uses the area roadways that currently service Turkey Point. Application No. 6 ensures the continued adequacy of these existing roadways. He stated that they feel that this Application also supports Goal 8. The temporary roadways are improvements to road infrastructure. We are going to protect mobility, efficiency and safety of the roads that currently serve this area. Without these improvements, the construction related traffic on these roadways would seriously degrade the quality of life for those using the roadways by making them less safe, less efficient, and adversely impacting mobility. Regarding Policy 8.8, by separating operating and construction traffic, FPL will be enhancing the safety of the transportation system by reducing crashes and increasing safety on commercial vehicle operations. Mr. Berkow then stated that Application No. 6 promotes policies relating to evacuation and emergency planning under Goal 18. We think this is a very unique application, because it is so unique, temporary roadways to serve a nuclear power plant, we think this needs to be treated differently than a typical development application. Because it is so unique it will not create any precedent. Mr. Berkow stated that he had a proposed compromise that would satisfy all sides. We would ask the Council to find Application No. 6 consistent with the *SRPP*, provided that it is amended to clarify that FPL will be responsible for all costs related to the temporary roadway improvements, and we would need

clarification that all environmental mitigation of the temporary roadway improvements shall occur in the statutory state and federal permitting processes.

Councilmember Ritter stated that Mr. Berkow specifically mentioned S.W. 359th Street, but that is only in Option No. 1. How does Option No. 2 impact FPL's plans, she asked.

Mr. Berkow stated from a transportation standpoint our professional consultant, Mr. Vargas, could tell you it is not as satisfactory a solution, however it does work. The problem that we are seeing with Option No. 2, we believe from a wetlands impact standpoint, Application No. 2 has an equivalent impact as Application No. 1, because Application No. 2 will impact an existing wetland area that has no roadway going through it today. The other issue with Option No. 2 is that it appears to require acquisition of about 50 separate parcels and we think that could be a problem with implementation of Option No. 2.

Councilmember Lieberman stated that the staff report shows that Option No. 2 has fewer impacts to the surrounding areas; therefore it has less of an environmental impact. She requested feedback from staff on this.

Ms. Church stated that the County is working with FPL to develop all of the wetlands criteria. We have not reviewed the information that Mr. Berkow has raised in his presentation, and I cannot comment as to whether he is correct or not. In our initial assessment, that was not a correct statement.

Ms. Dekle stated that what was described by Miami-Dade County is similar to the situation that Council staff found itself in when reviewing this information when there was still data and analysis that had not yet been provided in order to reach the conclusions that are now being reached. It is a matter of timing of information, when it is received, and how it gets utilized in the report.

Councilmember Wallace stated that he liked the compromise presented by Mr. Berkow. If the compromise is that FPL pays for all costs related to construction, maintenance and deconstruction of the roads and would mitigate the environmental impacts then, he would like to make a motion to accept the compromise.

Mr. Berkow stated that was the intended compromise.

Councilmember Riesco seconded the motion.

Mr. Goren informed the Council that the representative for FPL made a compromise, on the record. The Chair has a hard copy of what was described listing FPL's obligations.

Chair Scuotto read the following into record; this was provided by FPL to Legal Counsel:

Based on clarification received from the applicant, staff's revised analysis confirms that proposed Application No. 6 is generally consistent with the Goals and Policies of the *SRPP* provided it is amended to clarify that:

- 1) FPL will be responsible for all costs related to the temporary roadway improvements, and
- 2) All environmental mitigation of the temporary roadway improvements shall occur in the statutory state and federal permitting process.

Councilmember Wallace added there was an agreement that FPL would cover all costs, including building, maintenance, and deconstruction of the roadways.

Chair Scuotto asked if that was the intended agreement.

Mr. Berkow responded yes, that was the intended agreement.

Councilmember Perez asked if FPL is willing to do that, what would be the Council's objections to this.

Ms. Dekle stated at this point if that clarification is provided as part of the recommendations and we would assume that the applicant and the County will continue to work with Council staff between now and the time of adoption, then we can achieve the outcome that we are trying to achieve, by getting the additional information that is needed.

Councilmember Lieberman stated that she is not going to support the consistency determination until the Council goes through some of these items. The first amendment she has is on page 3, Application No. 6, where it states, "Proposed Application No. 6 is a combination of a map and text amendment to create new and temporary roadways...". She asked where the new roads are. If this is just a temporary road then we need to remove the word "new". The second amendment in the staff report is, in the same paragraph on page three, should say, "These roadways would provide construction traffic access between FPL's proposed expansion site and Turkey Point". Her next amendment is on page four of the staff report the second paragraph needs to be revised if this is just a temporary construction road. Councilmember Lieberman then stated that the Goal 4 and Policies 4.1, 4.3, and 4.10, do not apply and should be removed. Goal 7 belongs there, it is really the issue. It is nine years and, depending on which option is chosen, there could be environmental impacts. She stated that she would accept FPL's proffer, but would still not find Application No. 6 consistent, because we don't know that those impacts that they are going to mitigate aren't too intense for what should be done for the environmental deficit that is going to be created. Goal 8 and Policies 8.1, 8.4, 8.6, and 8.8 also do not apply. Councilmember Lieberman stated that she is not sure that Goal 12 and Policies 12.2 and 12.6 apply either, given that this is a temporary roadway to a power plant. Goal 20 and Policy 20.2 again do not apply because this is a temporary construction roadway. The one Goal that hits home is number 7, which talks about the environment. Option No. 2 is the staff compromise and that is not what FPL is accepting, but the others only seem to apply if it is a public roadway. Unless I am missing something, she stated, there is nothing in the report saying that this is a public roadway.

Councilmember Neugent stated that everyone around this table must have a degree of skepticism, and maybe mine is higher than others, but this is such an important issue to be brought to us where there has clearly not been enough discussion. He then requested clarification of a sentence in the staff report that he feels addresses the permanency of this road. "The County will have to determine which improvements will remain and ensure the appropriate roadways are returned to their pre-construction status." No matter what FPL agrees to do, at least in my interpretation if that sentence, it is left to the County Commission as to whether that is removed or not. This is such a broad, wide-open situation that the Council is being asked to vote on, having been given 11th hour information, I certainly cannot support this, he stated.

Councilmember Gunzburger raised the concern about the environmental impacts raised on page four of the staff report, in the last paragraph.

Councilmember Walters stated in relation to Goal 7, there is not a prayer that FPL is going to be able to proceed with this without going through federal and state permitting, which is what they just said. She stated that because she does a good bit of that for a living, I am extremely aware of the amount of avoidance and minimization and the mitigation that they will have to do to be able to get those permits. They are not at the point to provide the level of detail that would be in permit applications, for our

review, but that is the next step. The Council should be differing to the federal and state environmental regulatory agencies to make those decisions. She stated that she was having doubts about Goal 7 as well.

Councilmember Lieberman stated that she was not at finding them consistent based on the discussion. Environmental is not raised significantly in our inconsistency comments, the closest we get to it is Goal 7, but we are not even raising the specific issue. Staff, in looking at this, prefers Option No. 2, because it mitigates environmental impact. FPL has said that they are not at Option No. 2. This is transmittal, and the purpose of transmittal is to be able to get the key issue resolved as it goes to the next level. We need to revise the staff report to make sure that it does not imply that this is a public roadway, that all of this wonderful language that is in here about bike paths and mass transit is inapplicable, and we need to add a section that talks about environmental mitigation in the *SRPP*. That is the key to the issue and why staff is supporting Option No. 2. Councilmember Lieberman stated that she is not troubled with sending it with a recommendation of inconsistency just with the environmental, because it is a temporary construction easement. Between now and adoption, FPL needs to come in with specific information on what the likely mitigation is and we will be able to review that when it comes back for adoption. She stated that she is uncomfortable with sending in a recommendation with Goals and background information that is inconsistent with their application. In addition to the proffer about the costs of the roadway construction, we also need to get a proffer that says that this is only a temporary construction roadway; it is not in any way going to be open to the public or a public roadway.

Councilmember Kelley asked if Council staff could accept the proffer made by FPL, could staff continue to work with that if the Council were to pass it based on that.

Ms. Dekle stated that the staff recommendation, at this point, would be to find it inconsistent and to modify the report to include the language that FPL has suggested today, so that we can work through the Goals and Policies again given the additional information that is being provided. It gets down to this being a judgment call that the Council will make. It is either inconsistent and we identify the appropriate issues or it is consistent. Staff is recommending inconsistent and getting it through the transmittal stage. Staff will continue to work with FPL and bring it back to the Council at the adoption stage.

Councilmember Wallace stated that his motion was to find Application No. 6 consistent, with the stipulations made.

Councilmember Lieberman stated that she had a substitute motion which was to adopt Councilmember Wallace's motion with these conditions: that the road is temporary, FPL will pay all costs, remove all of Goals except Goal 7, and to include additional language related to the environmental impact which is raised by staff on page four; and to leave Application No. 6 with a recommendation of inconsistency on the environmental aspect.

Councilmember Walters seconded the motion made by Councilmember Lieberman.

Councilmember Sorenson requested a clarification of the difference between Councilmember Lieberman's motion and the staff recommendation.

Mr. Goren stated that Councilmember Wallace had a motion on the floor which includes the proposed language submitted by legal counsel for FPL which has been entered into the record and supported by the applicant's legal counsel with the qualifier that all costs associated with construction, deconstruction, and mobilization. There is a substitute motion, made by Councilmember Lieberman which modifies that motion by applying an inconsistency finding in the area of environmental concerns and mitigation

obligations, but finds the other aspects to be compatible. The substitute motion will take precedence over the previous motion and has been seconded. A roll call can now be taken to determine the vote.

Councilmember Gunzburger seconded Councilmember Lieberman's motion.

Councilmember Sorenson stated that her question was the difference between the staff recommendation and the motion made by Councilmember Lieberman.

Councilmember Lieberman explained that the only thing that she changed in the staff recommendation was that staff go through the recommendation and make it clear that we have accepted the proffer from the applicant that this is a temporary construction roadway only, limited to construction vehicles with no public access, that it will be de-constructed at the end of construction, that they pay all costs associated with that as was proffered. She stated that she is leaving in all of the environmental issues and is requesting that staff specifically revise to flush out the argument being made with respect to Option No. 2, being the better option. The key is the environmental impact which will now go to DCA with them looking at what mitigation might be for that when it comes back for adoption.

Councilmember Gunzburger stated that Option No. 2 does not eliminate the environmental problems that are raised on page four of the staff report.

Councilmember Lieberman stated that she is not saying that it does, she is just saying that it is not even in the staff recommendation.

Mr. Berkow stated all of the roadways except SW 359th Street are public roadways. We cannot close them, they are existing public roadways today.

Councilmember Lieberman stated that it was her understanding that there was one new roadway that will be constructed, which is a temporary construction road. Is that correct?

Mr. Berkow responded no, that is not correct.

Councilmember Lieberman then asked what new public roadways would be constructed.

Mr. Berkow stated that there was one private roadway, S.W. 359th Street, and it will remain private and is in Option No. 1 only. It is a road that is wholly owned by FPL.

Councilmember Lieberman asked if FPL was going to construct any new public roadways they will have public access.

Mr. Berkow stated that there would be one roadway in Option No. 2 that is at the extreme east end of S.W. 344th Street and approximately 97th Avenue. This road would stretch between the east terminus of S.W. 344th Street and the plant site. No road exists there today.

Councilmember Lieberman stated that she will take out the comments about which option, but she still believes that there are environmental impacts. If this is about the only thing new that FPL has offered to construct is a temporary construction road so that construction vehicles are taken off of the public roads, and no public access would be on this road then all of the comments about bikes and mass transit on the road would be inapplicable to a temporary private construction easement.

Mr. Berkow stated that the road is temporary, but not private. These are public roadways.

Councilmember Lieberman stated that they are existing roadways. She then asked if there was anything to be constructed that would be a public roadway under what was proffered.

Mr. Berkow responded not a new public roadway.

Councilmember Gunzburger stated that FPL would be adding lanes to public roadways.

Ms. Dekle stated that this conversation was the crux of what the staff report is about and it is the ability to get clarity on some of these issues from the applicant as we move forward that is what staff is trying to do. The motion that the Council is discussing is acceptable to staff and would allow us to continue to work with FPL to resolve outstanding issues as this moves forward to adoption.

Councilmember Perez stated that the motion that Councilmember Lieberman made was based on the thought that this would be a new temporary road. If it is an already existing road and we are adding lanes and FPL is saying that they will be going to improve and add bikes and things there, maybe we would like them to do that. So then in that case, Councilmember Lieberman's motion should be amended.

Councilmember Lieberman stated we need to differentiate out on this Application those comments that would apply to adding lanes to a public roadway and those comments that are inapplicable because it is a private construction road with no public access.

Councilmember Perez stated that she would be hesitant to support that because there was some language there that they don't have to improve anything if it is an existing road.

Mr. Goren stated that Councilmember Sorenson had a question about further clarification; this could be something that is dealt with in Tallahassee depending on how the Council takes a motion this morning.

After roll was taken, the Council voted to approve the motion made by Councilmember Lieberman, with no votes from Councilmember Brook, Councilmember Kelley, Councilmember Neugent, and Councilmember Sorenson.

c) City of Parkland

Ms. Hamilton gave a brief synopsis of the City of Parkland item staff report. During her report, Ms. Hamilton pointed out that there were a couple of changes to the staff report; it was revised to correct the acreage total for the wedge area. There was a change in square miles from 11.5 to 12.8. Since the revised report was sent out Council staff received a letter from the North Springs Improvement District stating that there was adequate capacity to serve this amendment area.

Councilmember Lieberman stated that Goal 7 talks about capacity for the water resources, and with the mention of the letter confirming that they have capacity Goal 7 and Policy 7.2 can come out.

Ms. Dekle stated that a representative from the City may be able to clarify whether the consumptive use permit capacity exists and is available. We are just seeing this letter. It was our understanding that the capacity was not available. The amendment area is not within in the service area at this point in time.

Mr. Dennis Mele, attorney for the property owner, stated that this property was in Palm Beach County and was transferred to Broward County last year. This might only be the second time that the boundaries

of Broward County have changed since 1920, so please bear with us as this is a very unusual circumstance. A lot of the information needed to analyze a land use amendment had to be recreated, because none of this property was in the Broward County maps or computer models. The area to the south is served by the North Springs Improvement District; it covers water, sewer and drainage. The letter that was mentioned addresses water and sewer. Here is the situation, he stated, because the land was in Palm Beach County, it was not eligible to be within the jurisdiction of the North Springs Improvement District and now it is in Broward and is eligible to be in that boundary. It is a special district governed by State and the boundaries are created by the Legislature. They have already filed a Bill in this Legislative session to annex our area into their service jurisdiction. The Bill has already been approved by the Broward County Legislative Delegation and the next step is Tallahassee. There were no objections at the Broward Legislative Delegation hearing. The North Springs Improvement District has capacity for us for water, sewer and drainage, but we are currently not in the jurisdictional boundary, we have to be added. They are in the process of renewing and extending their consumptive use permit with the South Florida Water Management District and they have included sufficient capacity to serve our area so that as soon as we are annexed into their area, service will be available. They currently have facilities just south of this property so extension of the lines will be a pretty straight forward issue. The only reason for a finding of inconsistency is because they don't have enough information yet to determine if we are consistent and the reason that the information is lacking is because of the transfer of property from Palm Beach County to Broward County, as mentioned earlier. We now have an alternative review procedure for land use amendments where the Council is barred from commenting in the future if it does not comment now. We request that the Council reflect in the transmittal to DCA the correction to the water, sewer and drainage issues and that every other issue that is in here will be resolved prior to adoption. Because of the procedural change in Broward, city and county amendments will now be reviewed at different times, so the Council will see this exact same amendment in the near future in the County packet.

Councilmember Lieberman moved to approve the staff recommendation with the change to reflect the new information regarding the water, sewer and drainage. Councilmember Neugent seconded the motion, which carried by a unanimous vote.

AGENDA ITEM SEVEN: Adopted Local Government Comprehensive Plan/Amendment Reviews

- a) Adopted Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Amendments
- City of Florida City
 - Town of Davie
 - City of Parkland
 - City of Miami Springs
 - City of Wilton Manors
- b) City of Dania Beach
- c) Village of Palmetto Bay
- d) Town of Surfside

Councilmember Lieberman moved to approve 7a, 7b, 7c, and 7d. Councilmember Gunzburger seconded the motion, which carried by a unanimous vote.

AGENDA ITEM EIGHT: Reports (cont.)

a) Executive Committee Report

Chair Scuotto informed the Council that the Executive Committee, acting as the Institute for Community Collaboration, Inc. (ICC) Board, authorized the ICC to enter into agreements and purchase equipment and supplies to implement the U.S. Department of Health and Human Services (HHS) *Legacy Green Empowerment Program* grant.

b) Financial Report

Councilmember Walters moved to approve the Financial Report. Councilmember Sorenson seconded the motion, which carried by a unanimous vote.

c) Executive Director's Report

Ms. Dekle reminded the Council about the NLF Small Business Forum on Thursday, February 4th. She then informed the Council that the Governor's budget was released and there was a significant reduction to the Regional Planning Councils' statewide appropriations. Staff will be making a presentation at a future meeting regarding the grant that the Chair just mentioned.

d) Legal Counsel Report

Mr. Goren informed the Council that staff successfully submitted the Joint Administrative Procedures Committee annual filing regarding compliance with state law.

e) Evaluation and Appraisal Report (EAR) Status Report

Information only

AGENDA ITEM NINE: Revolving Loan Funds

a) SFRPC Revolving Loan Funds Status Report

Information only

b) Hurricane Wilma Bridge Loan Status Report

Information only

c) Eastward Ho! Brownfields Cleanup Revolving Loan Fund Status Report

Information only

d) Broward County Cultural Division Artist Micro-Credit Revolving Loan Fund Status Report

Information only

AGENDA ITEM TEN: Contracts

None

AGENDA ITEM ELEVEN: Highlights of Council Activities

Information only

AGENDA ITEM TWELVE: Special Projects

a) **Statewide Regional Evacuation Study Program - Update**

None

AGENDA ITEM THIRTEEN: Strategic Regional Policy Plan (SRPP)

None

AGENDA ITEM FOURTEEN: Regional Initiatives with Treasure Coast Regional Planning Council

None

AGENDA ITEM FIFTEEN: Other Matters for Consideration

a) **Census 2010**

Councilmember Lieberman informed the Council that there are Census jobs available paying \$15.72 per hour, to apply go to the Census website.

AGENDA ITEM SIXTEEN: Correspondence and Attendance Form

Information only

AGENDA ITEM SEVENTEEN: Councilmember Comments/Public Comments

Mr. Andrew Riddle, Florida Department of Transportation, District 4, provided the Council with brochures and information regarding the Florida Transportation Plan 2060.

Chair Scuotto requested that staff reach out to the municipalities about the type of Brownfields properties that they have to begin a survey to work with the municipalities to find out if there if federal money. He then requested for future staff reports what the city and county commissions voted on the items in bold print.

AGENDA ITEM EIGHTEEN: Upcoming Meetings

- a) **March 1st, 10:30 a.m. (Council Offices, Hollywood)**
- b) **April 5th, 10:30 a.m. (Council Offices, Hollywood)**
- c) **May 3rd, 10:30 a.m. (Council Offices, Hollywood)**
- d) **June 7th, 10:30 a.m. (Council Offices, Hollywood)**

AGENDA ITEM NINETEEN: Adjournment

The meeting was adjourned at 12:50 p.m.

This signature is to attest that the undersigned is the Secretary of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL, and that the information provided herein is the true and correct minutes for the February 1, 2010 meeting of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL adopted the 1st day of March 2010.

Heather Carruthers, Secretary

Date