

## SOUTH FLORIDA REGIONAL PLANNING COUNCIL

### Minutes

August 3, 2009

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

#### **AGENDA ITEM ONE:** Roll Call

Executive Committee:

Councilmember Suzanne Gunzburger  
Councilmember Marta Perez  
Councilmember Joseph Scuotto  
Councilmember Sandra Walters

Council Members:

Councilmember Ilene Lieberman

The following Ex-Officio members were present:

Mr. Tim Gray, representing the Florida Department of Environmental Protection  
Mr. Elbert Waters, representing the South Florida Water Management District

#### **AGENDA ITEM TWO:** Pledge of Allegiance

#### **AGENDA ITEM THREE:** Development of Regional Impact (DRI) Program

a) DRI Assessment Reports

None

b) Development Orders (DO)

None

#### **AGENDA ITEM FOUR:** Proposed Local Government Comprehensive Plan/ Amendment Reviews

a) Proposed Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Updates Amendments

- None

b) City of Coral gables

d) Monroe County

e) City of Pompano Beach

Councilmember Gunzburger moved to approve the staff recommendation on agenda items 4b, 4d, and 4e. Councilmember Scuotto seconded the motion, which carried by a unanimous vote.

c) Miami-Dade County

Councilmember Gunzburger moved to approve the staff recommendation. Councilmember Scutto seconded the motion.

Ms. Jena Mier, representing Florida Power and Light (FPL), informed the Council that this amendment outlines the criteria under which a water management project could be constructed in an area that is very well defined. Each of the items that are within the Comprehensive Development Master Plan (CDMP) amendment gives FPL the direction as to how to construct the project. The amendment itself is not giving the authority to construct the project; permits, authorizations, etc. will still be required. The different conditions within the amendment outline what could be done if all of the criteria are met. Specifically, FPL would have to design a project that meets all the local zoning and state and federal permitting criteria that are in existence at the time. The project would have to provide water storage; it has to hold water and provide water for use in other areas to enhance adjacent wetlands, and it has to be consistent with the Homestead Air Reserve Base and its criteria. In order to do any of the project, FPL would have to be able to show that this project does not cause additional saltwater intrusion. FPL would have to agree that this project would be conveyed to local, state or federal agencies. They would agree that the aggregate would not be sold; it would be used as fill for the Turkey Point project, or used at other utility facilities, or used by the County for other public infrastructure projects. In addition, the project would have to meet all existing environmental criteria. It is an environmental project, but what she would like to stress to the Council today is that what it is reviewing today is the CDMP amendment language. The question is are those conditions the way that the amendment is written and are they consistent? FPL is working on the design of the project, and the conditions in the CDMP amendment outline how it can be designed.

Councilmember Lieberman stated that there was nothing that the Council could do but accept the staff recommendation, because the water management project is supposedly 300 acres, but the proposed amendment language is for 880 acres and data is missing to support it. In addition, this is just transmittal.

Councilmember Walters asked if Ms. Mier had any clarification on the acreage discrepancy.

Ms. Mier stated that the acreage was something that was set by Miami-Dade County. FPL does not have a concern shrinking that down specifically just to the fill site itself. This fill site was originally proposed as an area that was considered open land. FPL has been meeting with numerous agencies for the last 18 months discussing this project. The current location was actually moved to the west at the recommendation of this Compatibility Working Group to move it out of some higher quality wetland areas. The reason why they need the amendment was because the project location was moved.

Councilmember Lieberman stated that the problem was that it was transmitted as 880 acres and the Council has to look at what the County Commission transmitted; it was not a unanimous vote.

Councilmember Walters asked if there was a representative from Miami-Dade County to clarify.

Mr. Mark Woerner, Chief of the Metropolitan Planning Section for Miami-Dade County Department of Planning and Zoning, stated that this was a text amendment, not a land use map amendment. Unfortunately, because the applicant chose to go that way, County staff had to generally describe the area that could and might be larger, not knowing their exact siting requirement. The site is north of Military Canal and west of 112 Avenue. Miami-Dade County wanted the text amendment formulated in such a way that it didn't open up mining to the entire area that is designated Agriculture in the Miami-Dade County Plan, so they tried to limit it to an area at the request of FPL.

Councilmember Lieberman pointed out that the staff report states that there is not adequate data to support it and there is a motion and a second on the floor to adopt the staff recommendation.

Mr. Richard Grosso, from the Everglades Law Center, Inc., stated that they are a public-interest law firm that has been working with several members of the environmental community. We are just beginning to learn a lot about this proposed project, he stated. It, as an expansion, has a lot of moving parts; this is one of the big ones. This is a big project and a big regional issue. When this facility was first sited, many years ago, the modern laws we have now did not exist. This is the first major expansion under modern environmental law that has been proposed; this is the first time government is going out there and taking a really hard look at the current impacts and the impacts that could result from this expansion. There are some alarming things: the saltwater intrusion problem, and the migration of things that are associated with a nuclear power plant. This is not a site that they are going to look at and say, "That's where you ought to put a major nuclear facility". There are major questions; the types of things Council staff, County staff, and South Florida Water Management District (SFWMD) staff are raising include: saltwater intrusion, sea level rise, hundreds of acres of wetland lost, and interference with the restoration of Biscayne Bay and coastal wetlands project. There is a major question as to whether this is a suitable site. Yes, there is a major facility on site, but a major expansion of the facility in this location, at this time should not be looked at as something that is a done deal. From the cost to the environmental impacts to the transmission lines, those are major issues: and we would hope that the South Florida Regional Planning Council (SFRPC) would ask the very difficult questions and raise the very fundamental question as to whether this is where the expansion of a power plant should be going at this point in time given everything that is being done to restore Biscayne Bay including the potential competition for re-use water needed to re-hydrate the Bay. We appreciate the work that Council staff has put into their very good comments; we hope that the Council will support those comments and we also hope that the Council will be raising those major issues as this goes through a very complex and lengthy process.

Ms. Dawn Shirreffs, representing the Clean Water Action non-profit organization, stated that they are very opposed to this rock mining application. They believe that it creates a very high threat of saltwater intrusion. They believe that the language is inconsistent and says that it is providing a feature which is not part of any of the projects that are being forwarded by the Army Corps of Engineers or the SFWMD. That is why there are no letters of support from the SFWMD for this project. This is spot planning; you don't do a map amendment with a text change in a Comprehensive Plan. This is an abuse of the process. They are very concerned about the risks to the aquifer and saltwater intrusion.

The Council unanimously passed the motion made by Councilmember Gunzburger and seconded by Councilmember Scuotto to approve the staff recommendation.

Councilmember Gunzburger asked if this would be discussed at the September meeting.

Councilmember Walters stated that the Council discussed that at the July meeting and it was decided that there would be a presentation on the overall project (Turkey Point Expansion) at the September meeting.

f) City of Margate

Councilmember Perez moved to approve the staff recommendation. Councilmember Scuotto seconded the motion.

Mr. Ben Ziskal, City Planner for the City of Margate, stated that part of the staff recommendation was for Margate to continue to work with Council staff, and it was already in the process of doing so. One of the problems with this package moving forward today is that it doesn't include some of the information that is in the City's Transit Oriented Corridor (TOC), which already implemented a lot of these policies that

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are spelled out here. A brief synopsis of the TOC will accompany this as it comes back for adoption, and City staff will work with Council staff to get all of the deficiencies corrected.

Councilmember Lieberman stated that this was in her County Commission district and she wanted to make sure that Council staff works with City staff. The City has a Community Redevelopment Agency (CRA), and the TOC is a way for them to sort of jump start their development in that corridor. What happened here is they identified in the EAR that transportation was an issue, but we need to be more specific with them and give them exact suggestions of what to do.

Ms. Carolyn A. Dekle, Executive Director, stated that she would be sure that Council staff works with the City to get closure by the time this comes back for adoption.

Councilmember Lieberman added they need the help, they are trying to improve this corridor; right now it is vacant.

The Council unanimously passed the motion made by Councilmember Perez and seconded by Councilmember Scuotto to approve the staff recommendation.

### **AGENDA ITEM FIVE:** Adopted Local Government Comprehensive Plan/Amendment Reviews

- a) Adopted Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Updates Amendments
  - None
- b) Broward County
- c) City of Coral Springs
- d) City of Lighthouse Point
- e) City of Sunny Isles Beach
- f) City of Sunrise

Councilmember Perez moved to approve the staff recommendation on agenda items 5b, 5c, 5d, 5e, and 5f. Councilmember Scuotto seconded the motion, which carried by a unanimous vote.

### **AGENDA ITEM SIX:** Reports

- a) Executive Director's Report

Ms. Dekle thanked staff and the members of the Council, as many know, she has undergone a hip replacement over the last couple of weeks. Staff has been really terrific and has pitched in to help when she wasn't able to be in the office. She added that she appreciated everyone's tolerance through the process. On a different subject, the Council is going to be involved in continuing discussions about the budget as we go into the next fiscal year and into the legislative initiatives that Councilmember Lieberman has continued to raise. It is a very challenging time for the Council in Tallahassee. She will be better able to provide an update next month.

Councilmember Lieberman stated that the City of Weston, along with other governmental entities, was suing the State on Senate Bill 360 (SB 360). There have been some interesting emails back and forth between Secretary Pelham and some members of the Legislature who apparently don't agree with his interpretation of SB 360. She stated that she wondered how the SFRPC could weigh-in on this. When I chaired the Florida Regional Councils Association (FRCA), she stated, we sent a letter saying this was an important issue; we are here to help collaborate. Perhaps it might be a good idea for the Council Chair or

the Executive Director to enter the Council's presence early as opposed to the delay that it had in getting involved during the Legislative session, because she is very concerned about the implications if SB 360 is found to be a mandate and is stricken by the courts. It would be a good opportunity to send letters to the appropriate individuals to offer the Council's assistance.

Councilmember Scuotto stated that the Executive Committee sent a letter out when this initially came up. The City of Weston gave a presentation to the City of Sunrise about the lawsuit. He added that he didn't see a problem with the Council members sending letters individually or as a whole.

Councilmember Lieberman stated that she was not suggesting that the Council participate financially; however there will be data and analysis as this issue heads to court. Weston is one of the members of the SFRPC and to the extent that it can assist them in preparing their argument, it should.

Ms. Dekle stated that the Council will extend itself and offer its services to all participating local governments.

Mr. David Tolces, Legal Counsel, stated that legal counsel was familiar with the case, and on behalf of the SFRPC, they have provided assistance to staff by attending a workshop soon after the Legislation was adopted, trying to learn from DCA and other municipalities what the implications are in the legislation.

Councilmember Walters asked if a motion was required.

Councilmember Gunzburger stated that since the Council was unanimously opposed to SB 360 previously, they shouldn't need a motion.

b) Legal Counsel Report

1) Facebook Matters

Mr. Tolces stated this item was concerning an Attorney General's (AG) opinion that was requested by the City of Coral Springs concerning the establishment of a Facebook page. Mr. Samuel S. Goren, as City attorney for Coral Springs, at the request of the City Council, requested the AG opinion concerning whether or not the City could establish a Facebook page. The AG opinion, which was provided back in April, is attached to the memorandum regarding the AG opinion. The AG did say that the City could establish a Facebook page; it just needed to be mindful of the Sunshine Law and the public records law with respect to exchanges of information or opinions between elected officials.

2) DCA vs. Miami-Dade County UDB Land Use Map Amendments

Mr. Tolces stated that this item was regarding the Miami-Dade County Urban Development Boundary (UDB) Land Use Map matter, which was heard by the State of Florida Administration Commission last week. There was a decision previously issued by the Administrative Law Judge that was taken up by the Administrative Commission last Tuesday and they voted three to one to uphold the Administrative Law Judge's findings, which basically found that the Lowes amendment was not authorized and that the one for Mr. Brown's property was. Based upon the information that he has received, it is his understanding that Miami-Dade County is not going to continue appealing.

3) Eastward Ho! Brownfields Cleanup Revolving Loan Fund Declaration of Restrictive Covenant

Mr. Tolces explained that this Revolving Loan Fund Declaration of Restrictive Covenant needed the signature of the Executive Director, but the Council needed to authorize her to sign by way of a motion.

Councilmember Gunzburger moved to authorize the Executive Director to sign the Declaration of Restrictive Covenant. Councilmember Scuotto seconded the motion, which carried by a unanimous vote.

Mr. Tolces stated that Mr. Samuel S. Goren sent his regards; he was in court and was not able to attend the Council meeting.

**AGENDA ITEM SEVEN:** Other Matters for Consideration

None

**AGENDA ITEM EIGHT:** Contracts

None

**AGENDA ITEM NINE:** Upcoming Meetings

- a) September 14<sup>th</sup>, 10:30 a.m. (Council Offices, Hollywood)
- b) October 5<sup>th</sup>, 10:30 a.m. (Council Offices, Hollywood)
- c) November 2<sup>nd</sup>, 10:30 a.m. (Council Offices, Hollywood)
- d) December 7<sup>th</sup>, 10:30 a.m. (Council Offices, Hollywood)

**AGENDA ITEM TEN:** Adjournment

The meeting was adjourned at 11:00 a.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 August 3, 2009 meeting of the SOUTH FLORIDA REGIONAL PLANNING COUNCIL adopted the 14<sup>th</sup> day of September 2009.

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Katy Sorenson, Secretary

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Date