

AUGUST 15, 1996 - ENVIRONMENTAL PROTECTION COMMISSION - DRAFT MINUTES

The Hillsborough County Environmental Protection Commission (EPC) met in Regular Meeting, and as the Board of County Commissioners (BOCC) to consider a request from the Florida Department of Transportation (FDOT) to close State Road (SR) 60 for railroad crossing repairs, scheduled for Thursday, August 15, 1996, at 10:00 a.m., in the Boardroom, County Center, Tampa, Florida.

The following members were present: Chairman Dottie Berger and Commissioners Phyllis Busansky, Joe Chillura, Jim Norman, and Ed Turanchik. The following members were absent: Commissioners Chris Hart and Sandra Wilson (scheduling conflicts).

Chairman Berger called the meeting to order at 10:07 a.m. Following the pledge of allegiance to the flag, Commissioner Chillura led in the invocation.

Chairman Berger advised that FDOT and the railroad planned a full closure of SR 60, east of Valrico Road for five days, from 7:00 p.m. Friday, August 30 through noon Wednesday, September 4, 1996. The closure was to accomplish roadway repairs and the reconstruction of the railroad crossing. FDOT had indicated that the condition of the railroad crossing constituted a public safety concern and required immediate repair. Chairman Berger called for a motion to recess EPC meeting and open the BOCC meeting to take action. **Commissioner Norman so moved, seconded by Commissioner Turanchik, and carried five to zero. (Commissioners Hart and Wilson were absent.)**

BOCC ACTION REGARDING RAILROAD CROSSING REPAIR - SR 60, EAST OF VALRICO ROAD.

After reading FDOT's request for detour routes to enable crossing repairs and reconstruction on SR 60, east of Valrico Road, **Commissioner Berger moved approval, seconded by Commissioner Turanchik, and carried five to zero.** (Commissioners Hart and Wilson were absent.)

EPC MEETING RESUMED

Mr. Roger Stewart, Executive Director, EPC, advised that he had two addendums and an off-the-agenda item to be added to the agenda.

CONSENT AGENDA

Report of the Executive Director

1. Acceptance of monthly activity reports
2. Legal Department Monthly Report
3. Acceptance of Contributions to Pollution Recovery Fund
4. Analysis of Gardinier Settlement Fund

Commissioner Turanchik moved approval of the Consent Agenda, seconded by Commissioner Norman, and carried five to zero. (Commissioners Hart and Wilson were absent.)

CITIZENS ENVIRONMENTAL ADVISORY COMMITTEE (CEAC)

Mr. Russell Thomas, Chairman, CEAC, advised that CEAC continued to review Rule 1-11, the Wetlands Rule, and a public hearing was scheduled on Rules 1-10 and 1-11 on August 19.

WATER MANAGEMENT DIVISION

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Hachem Properties Update - Mr. Stewart advised that he had sent a letter to the Hachems indicating there was neither an ongoing enforcement action, nor a request for a consent agreement against the property. Mr. Chris Dunn, Director, Water Management Division, presented a chronological report from October 1994 to July 30, 1996, concerning EPC's involvement in the Riverlawn Mobile Home Park, Hachem's property. He understood that the effluent disposal problems had been resolved, EPC was no longer pursuing a consent order, and the Hachems had proposed modifications to bring the effluent disposal system into compliance. Permits had been issued for the proposed modifications, construction had been completed, and certification of completion had been submitted. EPC had an inspection scheduled that afternoon with the Hachems and their engineer to determine that construction was completed. The system would be monitored for three to six months to provide assurance that the modifications would bring the facility into compliance for the long term.

Chairman Berger acknowledged the presence of Commissioner Ed Collins, chairman of the Pasco County Commission. Ms. Hachem confirmed she had received the letter from Mr. Dunn, was concerned about the EPC's position of not requiring a consent order at this time. She contended that while the improvements had been completed to protect the pond from the stormwater problem, it was not something she had created. The letter from EPC should not have alluded to the fact that she might be required to enter into a consent order later. She had worked with EPC to solve the problem, she could do nothing further to resolve the Hillsborough County problem, and she requested that the requirement be totally lifted from the property so that she might refinance the property. Mr. Dunn explained that the State required any construction or any project that brought a facility into compliance to be evaluated/monitored for three to six months to provide reasonable assurance that such projects would be in compliance for the long-term. Responding to Commissioner Busansky's suggestion that EPC staff put that in writing, Mr. Dunn agreed with the understanding that full compliance would be determined after the system had completed a monitoring and demonstration period. Ms. Hachem contended that although she had agreed to do everything at great expense, the burden should not be on the property. Hillsborough County should step forward and resolve the stormwater-drainage ditch and the stormwater drains that collapsed in front of the property, which caused the water to pour into the pond. Mr. Les Eighmey, Director, Roadway Maintenance Division, advised that the property owners who owned the ditch right-of-way had been very cooperative and were willing to donate that easement to the County, which would allow the County to maintain the ditch and lower the roadside ditches. The work was expected to start within 90 days. Mr. Dunn interjected that, although he had said three to six months, he could have an engineer at the site once a month for the next three months; hopefully, compliance could be determined within 90 days.

WASTE MANAGEMENT DIVISION

Superfund sites - Mr. Hooshang Boostani, Director, Waste Management Division, presented the item, answered questions about the Stauffer Chemical Company site cleanup, and EPC staffs' efforts over the last three years to have the site brought into compliance. Commissioner Chillura reviewed the case history and asked if the EPC was willing to have the Chairman send a letter to Ms. Carol Browner, Environmental Protection Agency (EPA), Washington, D.C., to express the County's frustration. At the consensus of the members, **Commissioner Chillura moved to ask the Chairman, with Mr. Boostani's input, to send a strong letter to the director of the EPA, Washington, D.C.; copy all the Congressional, Senate, and House member delegation from this district housed in Washington, and ask them to assist with the Stauffer Chemical Company site. The motion was seconded by Commissioner Turanchik and carried five to zero.** (Commissioners Hart and Wilson were absent.)

EVALUATION OF EXECUTIVE DIRECTOR

Chairman Berger advised that since the Executive Director was not evaluated last year, there were no goals or missions with which to evaluate him. She distributed a form that she had prepared, which incorporated a form

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used for the evaluation of the County Administrator, among others, and asked the members to submit the form for review at the next EPC meeting.

EPC AUDIT UPDATE

Mr. Iwan Choronenko, Director, Air Management Division, reported that the audit was 95 percent completed. The EPC had received the final draft audit evaluation from David M. Griffin Company and, contingent upon a meeting with the EPC scheduled for September 12, 1996, from 1:30 p.m. to 3:30 p.m., discussion could take place on the findings, recommendations, strengths, and what needed to be done to effect closure. Once accomplished, the EPC could address what was to be done concerning wetlands and the legal department. Both issues were being addressed by the cross-organizational audit, but that audit would not be released until October 10 or 11. Mr. Stewart advised he would have a complete response to the audit available before that time.

UPDATE ON ROUNDTABLE DISCUSSION

Chairman Berger reported that the heads of EPC, Southwest Florida Water Management District (SWFWMD), the State Department of Environmental Protection (DEP), the Corps of Engineers, and the County had met the previous day. The group was making progress and would give the EPC an update at the next EPC meeting.

Commissioner Turanchik interjected that the most recent suggestion being discussed at the roundtable was to have the EPC do the wetland delineations and SWFWMD issue permits. He felt it would be very cumbersome and open for substantial entanglements and confusion to have the EPC staff in the field do delineations and SWFWMD issue permits without understanding all the issues. Responding to Chairman Berger's suggestion if he had ideas that he attend the roundtable discussions, Commissioner Turanchik advised that he was relaying his views so that the EPC staff was aware of his opinions. Chairman Berger commented that the intent of the roundtable was to streamline, eliminate duplicity, and set up guidelines of each regulatory agency's responsibilities.

When asked by Commissioner Turanchik if there was a legal barrier for the delegation of wetland permitting to the EPC, EPC Assistant Attorney Vernon Wagner advised that, legally speaking, there was no barrier from the State level. He believed there had been a difference of opinion in the past from the federal level, but there was a position that it could be delegated directly down to EPC. Commissioner Turanchik's greatest concern was that the EPC appropriated general revenue public funds to EPC staff to do the wetland function. If that function were delegated to SWFWMD, or another agency, how well the work was done would depend on how much money was budgeted for that function, which was beyond EPC's control. His concern was that in the budget and appropriation process for other agencies that function could get tremendously watered down or staff reduced. The EPC would then be in a position that it had delegated a responsibility to an agency that could not do the work; EPC would be in a contractual relationship where it had given up that function, and unless that governing board agreed that the County take the wetland function back, it would remain with that agency. He hoped that the EPC staff and whoever was participating in the roundtable discussions was cognizant of the issue--that the EPC did not want to lose the ability to protect the environment. Chairman Berger advised that one issue addressed in the audit was to delegate the wetlands to SWFWMD, which was also being looked at by the roundtable group and was probably one of the hottest issues. Commissioner Turanchik recalled what had happened in the past when SWFWMD issued so many wellfield permits that caused so much damage. That could happen in the future, if a governor, other than Governor Lawton Chiles, appointed people to the water district who did not have the same concern about the environment and the wetlands. Then, the EPC, sitting as the Board of County Commissioners, through the budget and appropriation process, would have lost its ability to protect the County's wetlands. Staff needed to be cognizant that if a delegation issue came up at the roundtable discussion that presented the ability or option for the County to take that function back, then that had to be done. He did not want to delegate a wetland function in good faith and have a water management district or someone else gut the program. Chairman Berger again

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interjected that the focus of the roundtable discussion was to streamline, eliminate duplication, and enhance the protection of the environment.

Mr. Stewart was concerned that he was attending the roundtable, but he was in an uncomfortable position because he had not received any guidance from the EPC. Discussions were taking place that might or might not have merit, he was trying to deal with issues that he had no mandate from the EPC to handle, and he asked for guidance. Chairman Berger advised that until the EPC received recommendations from the roundtable group, there was nothing for the EPC to act on, and until then she did not know what guidance the EPC could give Mr. Stewart. Commissioner Turanchik understood Mr. Stewart's dilemma in that he was supposed to be representing the EPC. However, Mr. Stewart did not know what position to take, or on which issue, and guiding him was difficult for the EPC when it did not know what issues were being discussed. From a policy standpoint, Commissioner Turanchik was interested in making sure the County's wetland rule was protected and implemented, that the delineation, permitting, monitoring, and compliance functions were carried out, and that because of any possible delegation, rearrangement, or streamlining, the EPC did not jeopardize the EPC's goals and principles as set out in the wetland rule. Discussion ensued about the position Mr. Stewart should take at the round table discussions. Commissioner Busansky agreed with Commissioner Turanchik's comments. However, from a policy point of view, the EPC did not appoint people to the roundtable and it was not a formal body. Mr. Stewart was attending as a participant, not as a representative of the EPC, because the EPC had not signed off nor had it been involved in what was being discussed. When the group came before the EPC with recommendations, then the EPC would give directions. Commissioner Turanchik advised that the only position the EPC had taken on the wetland delineation was to delegate it all to the EPC agency, and that was the only formal position Mr. Stewart was authorized by the EPC to take.

Commissioner Chillura advised that his desire was to have all environmental permitting done at the EPC administrative office in Ybor City and he questioned how that could be accomplished if the other agencies did not want to cooperate. Chairman Berger explained that the focus of the group was to reach a consensus among the regulatory agencies about how to streamline, not one agency trying to dictate to another. All the agencies understood there was a problem, with no one-stop shopping, and the round table was discussing having uniform permitting so that when one agency signed off, that agency would be signing off for all of the agencies, but the details still had to be worked out. EPC Chief Counsel Sara Fotopulos had informed Chairman Berger that, although historically there had not been cooperation between EPC and SWFWMD, since the Environmental Resource Permit (ERP) had been implemented, a new standard had been set. Commissioner Chillura spoke of the need for the County's residents to feel comfortable when applying for permits, similar to what was happening in the city of Tampa. He asked if it would represent the EPC's goal if the EPC were to make a motion to tell Mr. Stewart that the position it wanted to represent among the various groups was that the EPC would like to establish a one-stop permitting center for all County environmental permitting in Ybor City at the EPC administrative headquarters. Chairman Berger felt that was premature. Mr. Stewart said he was very cognizant of the EPC's motion about delegation, he had publicly stated that in the round table discussions, and the group understood that his direction from the EPC was to seek delegation. Also, after the meeting with SWFWMD, EPC staff had been working increasingly successfully with SWFWMD staff to eliminate duplication and had full agreement that EPC staff would do all of the delineations in the County, and SWFWMD would honor it. SWFWMD seemed amenable to EPC staff enforcing wetland infractions, which would probably include complaint investigation and several other areas. However, by virtue of a previous EPC direction, he was in no position and would not contemplate, unless directed otherwise, to give up the permitting or final authority; he had no problem pursuing that position.

ADDENDUM ITEM

Mr. Stewart requested that he, as the Executive Director, be authorized to sign an agreement with Tampa Bay Regional Planning Council (TBRPC). The National Estuarine Program (NEP) was supporting an effort to

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determine nitrogen input into the water. Mr. Tony D'Aquila, EPC Air Management Division staff, advised that the staff, at the EPC site on Gandy Boulevard, was running a dry and wet deposition system and an ambient monitoring device to sample for nitrates in the air. EPC staff was gathering the samples on a pro bono basis Monday through Friday. However, the staff was also required to take samples on Saturdays and Sundays and the NEP had made funds available to compensate the staff to do that, which was the purpose of the motion. Chairman Berger questioned if staff could determine where the pollution came from once the testing was completed. Mr. D'Aquila could not speak to that. EPC staff was only doing the collection; evaluation would be done by EPA but hopefully, that would be part of the target once the samples were analyzed. Chairman Berger called for a motion to approve the contract with the TBRPC. **Commissioner Turanchik so moved, seconded by Commissioner Norman, and carried four to zero.** (Commissioner Busansky was out of the room; Commissioners Hart and Wilson were absent.) Commissioner Turanchik advised that the question asked by Chairman Berger about where the pollution was originating involved the Tampa Electric Company (TECO), and it was a major issue. If 50 percent of the pollutants originated from TECO, and a new level of technology was needed to clean the air to meet water quality standards, that would cause the electric rates to be increased. Commissioner Turanchik advised that would be a major issue; the science had to be beyond reproach, because the consequences to Tampa Bay and to electric rates were significantly at risk. Mr. Choronenko advised that such technology existed through the energy air shed model that had been frequently utilized for ozone testing in cities like Baltimore and New York City. It would require extensive modeling and monitoring, and it cost approximately \$250,000 to implement. Dr. Cooper at the University of Central Florida could effect the modeling, and the County might be compelled to find the funding to determine the source of the pollution. Mr. D'Aquila advised that part of the study was with Florida State University, and Dr. Winchester would be developing a specific model for the Bay area as part of what the NEP was proposing to do. Commissioner Turanchik urged EPC staff to try to engage them professionally and scientifically from the beginning to ensure there was agreement about the method, models, and everything to be used, because there would be debate when the results came in. Mr. Stewart advised that the EPC's job was simply to determine how much nitrogen was being deposited from the air into the water. Commissioner Turanchik felt it was important for the reputation of the agency and the EPC board that exacting science on this issue be demanded, and that it be as fair and objective as possible.

SUSTAINABLE COMMUNITY PROGRAM

Ms. Leslie Campbell, EPC legal staff, reported on legislation passed last year concerning a Sustainable Communities Program, to be administered through the State Department of Community Affairs (DCA). The program would set up five designations of sustainable communities throughout the State, three of which would be within the jurisdiction of the South Florida Water Management District, leaving two available options for the rest of the State. The County Administrator and the Mayor of Tampa had proposed that the city of Tampa (City) and the County jointly apply for designation as a sustainable community. Ms. Campbell read legislation text, which indicated that the Legislature intended the demonstration program to be used to further the following six broad principles of sustainability: restoring key ecosystems, achieving a cleaner more healthy environment, limiting urban sprawl, protecting wildlife in natural areas, advancing the efficient use of land and other resources while creating quality communities and jobs--many of which EPC staff was working with already. The EPC staff had officially been asked by Mr. Gene Boles, Director, Planning and Growth Management Department (PGMD), to help the County prepare the application by providing information about EPC's existing and potential programs. Ms. Christie Supp and Mr. Robert Henriquez, PGMD staff, had addressed the EPC senior staff meeting and explained what information was needed. Ms. Catherine Kelley, EPC Information Specialist, and Ms. Campbell would assemble the information and provide it to PGMD by August 23.

Commissioner Norman asked what the advantages were of becoming a member. Commissioner Turanchik advised that Secretary Murley (sp) had explained that the Legislature would like to see an application from Hillsborough County, but because of the way the legislation was written, a certain number of designations were

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directed to go to South Florida, and the other designation was geared toward a joint application. In order for the County to obtain a designation in the latitude allowed, the City and County had to apply together.

SPECIAL PRESENTATIONS

A narrated videotape presentation on air quality management was viewed, which addressed air pollution in the Tampa Bay area, how pollution affected the citizens' health and well being, and how to take an active role in managing air pollution.

PUBLIC SERVICE ANNOUNCEMENT

A brief public service announcement was presented on hearing loss.

PUBLIC COMMENT

Ms. Barbara Merritt requested a copy of the public service announcement for the Boys Scouts of America Environmental Badge. Ms. Merritt also asked for an update on two Superfund sites within a mile of the Stauffer Company. She felt it was duplicative for the CAC and the Citizens Environmental Advisory Committee to review the EPC audit. She also asked if the assessments on the tax bill would be increased if the delineation of the wetlands were delegated to SWFWMD, asked where the round table discussion minutes were available, and questioned if the Industrial Development Authority should be involved with financing the technology if TECO had to install new equipment. Ms. Marilyn Smith discussed the videotape on air quality management, questioned if the ozone increased at the height of the tourist season, some Tourist Development Council funding could go to the EPC, suggested the need for EPC to keep control of the wetlands, and felt the David M. Griffin audit was unfair.

Mr. Stewart advised that he had attended a meeting sponsored by the Florida Association of Counties and the Lieutenant Governor's Office. The meeting about delegating functions to the local level was very productive, and he intended to attend the next meeting and would keep the EPC updated.

ADDENDUM - COMMISSIONER'S REQUEST

Commissioner Chillura advised that he had met with Assistant County Attorney Susan Fernandez regarding wetlands and the tree ordinance. Attorney Fernandez had been communicating with Attorney Fotopulos and had decided that addressing the issue following the outcome of the litigation involving Pinellas County and SWFWMD would be best. He had informed Attorney Fernandez that he agreed to address the wetland and tree ordinance violations after the outcome of the litigation.

Chairman Berger asked the members to give her the completed evaluations for the Executive Director on the Monday prior to the EPC meeting scheduled for September 16, and she would hand out a consolidated report at the meeting.

There being no further business, the meeting was adjourned at 11:40 a.m.

READ AND APPROVED: _____
CHAIRMAN

ATTEST:
RICHARD AKE, CLERK

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By: _____
Deputy Clerk
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