

**MINUTES REPORT
EAGLE TECHNICAL ADVISORY COMMITTEE
(ETAC)
Tuesday, March 9, 2021**

Committee Members Present:

Betsie Hiatt, Vice-Chair
Mike Myers
Ed Elms

Excused / Absent:

Laura Greeno, Chair

Lee County Government Staff Present:

Becky Sweigert, DCD Planning
Nic DeFilippo, DCD Planning
Michael Jacob, Deputy County Attorney
Debbie Carpenter, DCD Administration

Outside Consultants/Members of the Public Present:

Laura Herrero, Johnson Engineering
Kyle Philpot
Charles Thompson, Seagate
Matt Price, Seagate
Joe Madden, Madden Law Fire

CALL TO ORDER:

Ms. Betsie Hiatt called the meeting to order at 3:03 pm in the first floor conference room 1B of the Community Development/Public Works Center, 1500 Monroe Street, Ft. Myers, Florida. Introductions were made.

Ms. Hiatt started discussion with Item #3. Item #2, approval of the minutes would follow.

SEAGATE ALICO NORTH INDUSTRIAL PARK

Ms. Laura Herrero, Johnson Engineering introduced the Seagate Alico North Industrial Park Bald Eagle Management Plan (BEMP) stating that the developer was in the process of obtaining a development order and environmental approvals for a project in the area of Three Oaks Parkway, Oriole Road Extension and McGarvey Research Park, specifically for the Seagate Alico North Industrial Park, when a new bald eagle nest was identified during a South Florida Water Management District (SFWMD) site review on February 10, 2021. Johnson Engineering (JEI) was brought in to assist the developer with the preparation of a management plan, to coordinate with agencies, and for monitoring. A BEMP was prepared and sent for ETAC review in mid-February with a different site plan. A revised BEMP that modified the site plan in an effort to minimize impacts within the primary zone was emailed to the committee on 3/8/21 just prior to this meeting.

On February 18, 2021, JEI confirmed that the nest was active. On March 5, 2021, it was confirmed that the nest had two bald eagle chicks almost ready to fledge. Monitoring will continue until both chicks have been documented to have fledged.

Ms. Herrero said the nest is not on the Seagate property being developed but is north and west of Oriole Road on property owned by another entity, about 75' off the ground in a slash pine. The proposed plan includes development of two lots along the western side of the Seagate property, both outside the 660' buffer except for a small portion of the southwest lot, however a spine road is needed to provide access. The original development plans were revised to move the spine road as far north as possible away from the nest tree to help minimize impacts, but a portion remains inside the 660' zone. She pointed out the nest location, the 330' and the 660' radius protection zones on aerial. As a result of conversations with Florida Fish and Wildlife Service (FWS) the BEMP now includes a phased approach to development. Phase 1 would include construction of the spine road that is necessary for access to the western lots to be developed. Construction would begin following approval of the development order and other required permits during non-nesting season, and only after the birds have fledged. The intent is to have the road construction completed prior to the start of nesting season (October 2021), however, should construction not be finished before that time, the developer would provide monitoring according to the FWS Bald Eagle Monitoring Guidelines. While Phase 1 is in process, the owner will apply for an Incidental Take permit, as recommended by FWS, for the rest of the proposed development work within the 660' buffer (as documented by emails included for Committee review). Phase 2 will not commence until the Incidental Take Permit has been obtained.

Mr. Matt Price spoke on behalf of Seagate Development stating that every effort has been made to minimize impacts but that there are three entities affected by this eagle nest (and he has been contact with each) and the size of this development, 20 acres, does not allow for a complete redesign of the project.

Ms. Herrero said that at this time, the plan is to obtain an approval to move forward with the development plan as shown which minimizes impacts by pushing the road outside the 330' zone and with the commitment that there will be no construction in the 330' zoning during eagle nesting season.

Ms. Herrero said there is a forested preserve which is part of a SFWMD conservation easement on the property. Mr. Elms asked about the specific location of the preserve, and Ms. Herrero located it on aerial showing that it was just outside the 660' zone. Mr. Elms asked about the vegetation between the nest and the proposed roadway and Ms. Herrero said it is forested and very thick with a mix of pines and melaleuca. She said JEI staff had walked the area and where the road would be, the nest could not be seen. This visual barrier will remain during construction but Seagate would have no control over other entities. Mr. Elms was concerned about the amount of disruption and how it might affect the chicks and asked if it would be possible to wait to begin any work until after the birds had fledged and were independent of the adults – in other words, were not returning to the nest for food. Ms. Herrero said that JEI will be monitoring the birds and their progress, but since there was some delay in obtaining the development order as a result of finding this nest, there is still some time before it is issued and this should not be an issue.

Ms. Sweigert referred to the site plan and the reference to a building height of 55'. Mr. Thompson said the maximum building height on the north side can only be 24', on the south only 30', per code. She asked about the building's footprint. He was not able to talk about specifics since he did not know what will be going there. Ms. Sweigert asked if they had looked at the incentives for the 330' protection zones, but again he said because there are multiple ownership groups these things will be contingent on what happens after the spine road is in.

Ms. Sweigert said it appeared that the focus for now is Phase 1 and Ms. Herrero confirmed that the spine road was needed to access the western lots, and that Phase 2 would not commence until after receipt of the Incidental Take Permit. Ms. Sweigert confirmed her understanding which was that the Committee would be approving Phase 1 of the BEMP at this time in order to construct the spine road, but would return to ETAC for review and discussion of Phase 2.

Mr. Michael Myers made a motion to recommend approval of Phase 1 as outlined in the BEMP, with the condition that the BEMP will be brought back for a review of Phase 2 after obtaining the Incidental Take Permit from FWS. Mr. Elms seconded. The motion was called and passed unanimously.

Mr. Sweigert said she would coordinate with the applicant on Board approval, anticipating that the Board would review the BEMP at one of the April meetings.

APPROVAL OF MINUTES – JANUARY 12, 2021

Ms. Hiatt called for a review of the January minutes. There were no comments or changes.

Mr. Myers made a motion to approve the January minutes as written. Mr. Elms seconded. The motion was called and was approved unanimously.

Member Comments/Discussion

Ms. Sweigert thanked the committee for looking at the Seagate BEMP, especially since the changes were made last minute. She had been skeptical about whether this was going to be a real bald eagles nest because it was not far from one to the south which was active and had 2 chicks, and then there was another close by as well. She thought that this might be the Daniels Marketplace pair because of the way the nest has been constructed - sides are hidden, top part is flat – like #58. If it is that pair then they are definitely acclimated to a lot of noise. Mr. Myers asked if the nest could have been there last year, but she thought not, since Mr. DeFilippo had been there in September and he had not seen it then.

Member Reports

Mr. Elms:

- Galt Preserve - 1 chick was perched on the side of the nest, perhaps 9-10 weeks old. Adults were not there.
- Vacation Lane/Cactus Point – Neither adult was there, but he saw 1 chick, probably 7 or 8 weeks old, high in the nest.
- St. Jude – 1 adult was there with 1 chick. He had seen 2 chicks in the past, but this time could only see one. Chick was probably 8 to 9 weeks old.
- St. James/Post Office – No activity that he could see. They are either really hidden, or went somewhere else. Ms. Sweigert was going to follow up with her contact out there.
- Pine Island Flatwoods – He said that Mr. DeFilippo had given him a map of the area. Two of the nests were far back by the mangroves, too far on foot. One was about half a mile, walking distance, from the parking lot but it had rained recently when he was there and he wasn't able to get back there. Ms. Sweigert was going to check with her 20/20 contacts to check on it.

Mr. Myers:

- St. Charles Harbor - He saw 1 adult and 2 chicks. Second adult did fly in just before he left.

- Robalo – He saw one head pop up out of the nest. Brief discussion that permission's been given to go on to the property, but there is a gate. Ms. Sweigert suggested parking off to the side and then walking around the gate.
- Jonathan Harbor – He saw one head pop up in the nest and saw both adults. Ms. Sweigert relayed that a resident had called her a couple weeks ago that an adult bird had died and that one of her neighbors had seen a fight between two birds; but then texted to say she had seen 2 adults near her house. Mr. Myers had seen two adults circling the nest tree so maybe a new adult has come in to help raise the young.
- Sanibel Sunset – nothing new there. He did see young owls at the osprey platform again where there were owls last year.
- Alico Road – He saw both adults and 2 chicks in the nest.
- Lakes Park – He saw 2 adults perched on the cell tower.
- Pub & Pickle – 2 young in the nest. Did not see the adults. (Ms. Sweigert said this was the second most watched nest after the Pritchett nest)
- Lexington Middle – He saw 1 adult, 1 young.
- Sora Drive – He saw 1 adult and 2 young.
- Tortuga – he saw both adults perched in dead Australian Pine snag and watched 1 young fly out of the nest.
- Oriole Road – He drove by and saw 1 young.

Ms. Hiatt:

- Bank of America – nothing going on there. She saw 1 adult early in the nesting season but nothing since. The nest is still in good condition. The property across the street is well under construction and has their eagle barrier there, but she suggested it might be time to release that restriction.
- Barrancas – She has consistently seen the adults and thought she had seen incubating behavior but didn't see any chicks (but it was a cold and windy day).
- Quail Trail – 1 chick about 6 weeks old, 1 adult in the nest.
- Pacosin – Still not seeing anything there and has had no reports of any activity.
- Esther – 1 chick in the nest.
- Helen Road – There has been no activity; she has given up on this one for the season.
- Cubes – Same. No activity.

Mr. Myers asked about Tranquility Bay. Ms. Sweigert said there is no access to that area anymore. The forage is there, the trees are there but there's no access. No development ever took place out there.

Mr. Elms asked about the North Fort Myers nests. Ms. Sweigert said the Moody tree is dead. Mr. DeFilippo saw 2 chicks in the cell tower nest. There was 1 chick at Bayshore Commons.

Ms. Sweigert reported that there was a new nest reported on Captiva, a residential lot just as you come onto Captiva. There were 2 chicks, but both died within a few days of each other. There was also a chick at South Seas that went to CROW but that one passed also.

Ms. Sweigert said the next meeting was tentatively scheduled for April 13, 2021 but if there were no requests or public it may be postponed.

There was no public present and no further discussion. Ms. Hiatt adjourned the meeting at 4:07 p.m.