

MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(EROC)
Wednesday, November 8, 2023
2:00 p.m.

Committee Members Present:

Randal Mercer, Chairman
Tracy Hayden, Vice-Chair
Sam Hagan
Bill De Deugd

Mike Roeder
Bob Knight
Michael Reitmann

Excused / Absent:

Victor DuPont
Ian Moore
Carl Barraco, Jr.

Tim Keene
David Gallaher

Lee County Staff Present:

Adam Mendez, DCD, Zoning Senior Planner
Joe Adams, Assistant County Attorney
Marc Mora, Assistant County Manager
Belinda Odom, DCD Administration
Beth Workman, Zoning
Roland Ottolino, Director, Natural Resources
Phil Gillogly, Operations Manager, Natural Resources

CALL TO ORDER AND AFFIDAVIT:

Mr. Randal Mercer, Chairman called the meeting to order at 2:04 p.m. The meeting was held in the Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida, Conference Room 1B. Mr. Mercer stated we have a quorum and asked Mr. Joe Adams, Assistant County Attorney if we had a legal meeting.

Mr. Joe Adams, County Attorney's Office confirmed the Affidavit of Publication was legally sufficient as to form and content and the meeting could proceed.

Mr. Joe Adams announced that this Ordinance is being brought forth by the Lee County Natural Resources Department. Mr. Adams introduced Mr. Roland Ottolino, Director of Natural Resources, Phil Gillogly, Operations Manager, Natural Resources and Marc Mora with the County Managers Office. Mr. Adams stated Mr. Ottolino is going to open it up to why we are moving this forward and then we can go through the Ordinance like we normally do.

Mr. Mercer asked to do the approval of the minutes first before going forward with the Ordinance.

APPROVAL OF MINUTES – September 13, 2023

Mr. Mercer asked if anyone had any comments or changes to the Minutes from the September 13th, 2023 meeting. There were none. He asked if there was a motion to approve.

Mr. Bill De Deugd made a motion to approve the September 13, 2023 minutes as written, Ms. Tracy Hayden seconded. The motion was called and carried unanimously.

Mr. Mercer announced Mr. Buck Ward, a member of EROC for 30 years is retiring. If anyone has any suggestions of anyone who would like to fulfill the seat for another 30 years that would be great. Mr. Ward will not be easy to replace and if anyone sees him, please Thank him for his years of service to EROC.

Mr. Randal Mercer then stated that Mr. Bill De Deugd has submitted his Conflict of Interest voting form for the Noise Ordinance Amendment from the last meeting, this will be submitted into the record for the meeting.

Lee County Water Conservation Ordinance 17-04

Mr. Roland Ottolini opened with a brief description of what this Ordinance is about. The purpose of this Ordinance is to modify the Water Conservation Ordinance and to protect our water resources for future and continued use.

Revisions to Lee County Water Conservation Ordinance 17-04

The Board of County Commissioners adopted a Water Conservation Ordinance (Ordinance 05-10) on June 14, 2005 and later amended the ordinance in 2017 (Ordinance 17-04). Ordinance 17-04 amended provisions concerning the landscape irrigation days, updated Florida Statutes, amended provisions of the enforcement procedure, addressed mitigation of penalties and temporary relief upon exceptional circumstances.

Lee County staff has been monitoring the Sandstone aquifer in Lehigh Acres and the Mid Hawthorn aquifer in South Fort Myers since May of 2020. This program was initiated due to the increased volume of well permits issued year over year and to supplement the data collected by the United States Geological Survey (USGS). The goal was to monitor the effects growth places on the groundwater resource. Last year the South Florida Water Management District (SFWMD) raised concern with water levels within the Sandstone Aquifer in eastern Lehigh Acres. On October 6th, 2023, the SFWMD notified Lee County in writing to cease issuance of irrigation well construction permits within a six square mile area of Southeastern Lehigh Acres. Though SFWMD identified an area within Lehigh, the monitoring wells throughout the County have shown the same declining trend.

In order to address the declining aquifer levels throughout the county, staff is proposing revisions to the current Water Conservation Ordinance. The major revision is to implement a one day a week watering schedule between the beginning of February through the end of May. Typically, the aquifers peak towards the end of rainy season and show the most stress during the April-May timeframe. One day a week irrigation during the dry season helps conserve water and protect the aquifer from the continued population growth. Exemptions are proposed as well for golf courses who would see the biggest impact to their business.

Mr. Ottolini asked if there were any questions or remarks.

Mr. Mercer asked how far below surface are the aquifers that are running dry In Lehigh?

Mr. Phil Gillogly replied the typical wells drilled down to 140 to 160 feet, that is the lower one, they also go to 80 to 100 feet. The top of the aquifer and where that hits is about elevation of -37. The State of Florida mandated a level of service for those aquifers that you cannot go below the top of the aquifer. If go below the top of the aquifer, it could collapse and you lose that volume, and it permanently affects the aquifer's ability, so they set 20 feet above that is the maximum Developable limit. Once you hit that limit, you are not supposed to withdraw water at all anymore. We have hit that a couple times through the USGS monitoring well on the far East side of the County.

Mr. Mike Roeder asked about public water supply and if they were on the same aquifer and if the County had a handle on that. Mr. Ottolini replied that yes, some of them are and this affects all uses of unincorporated Lee County. For instance, Lehigh Acres and FGUA use some of the Sandstone aquifer and other aquifers, but they are managed a little differently than all these individual wells, however, it's a resource that we need to protect. Public Utilities do have the capability of treating saline water and things of that nature but it becomes very costly.

Mr. Roeder also asked about capping wells, which Mr. Mercer had brought up earlier and if it was still an ongoing program. Mr. Phil Gillogly stated that they have done four this year, and part of that is the property owners must be willing, and if they are not, it is harder to get flowing wells done. The state is also going through and looking at capping old oil wells. They have programs and we are looking to get some of them capped off. It is very expensive.

Mr. Bob Knight stated that in Cape Coral you can't force them to cap an old irrigation well, but as soon as they need a permit, it allows the City to go on the property, and then the City can say this needs to be capped.

Mr. Mercer asked if there was anything in the existing Ordinance or future Ordinance that would require a capping of a well when they are drilling a new well. Mr. Gillogly replied they would have to cap it if they are drilling a new one.

Mr. Bill de Deugd asked if they could explain the capping procedures. Mr. Gillogly said each one depends on the well. If they are flowing wells, it can be difficult because you have to overcome the pressure of the water forcing up through. It's typically a grouting

process down through to the first combining layer so you don't have the aquifers intermingling between the two. They go down to cap to that point and bring it back to land surface.

Mr. Bill de Deugd asked what the future development is in Lehigh Acres if there is already a concern here. Mr. Bob Knight said with everything expanding, it's all headed East again, and the East coast is moving West. The question is where is it going to go in the next 5 to 10 years?

Mr. Marc Mora stated they recently had a Strategic Planning session with our board to give staff direction to conduct a regional water supply study for us to get a better understanding of where all public Utilities are as well as unincorporated areas. He also stated that this study will be very informative about what we as a County has to do to in order to expand utility services to prevent having tap into the aquifer. What you are going to see as a result of the study an action plan put forth by the County and hopefully the municipalities and private utilities that address that long term concern of water supply. The Board recognizes that it is an issue as well and he believes there will be a longer-term plan than addressing it this way.

Ms. Tracy Hayden said she remembers reading that this is to help prevent them from having to go to a moratorium on building and this is the first step to try and prevent it.

Mr. Knight stated this is what we do in Cape Coral, and it does work. Has anyone analyzed what the recovery of the aquifer if this happens. Is it going to recover or is the slow down inevitable that we are going to have big problems down the road? Mr. Roland Ottolino replied there is a long-term downward trend, but each year we see recovery, even when we get a rainfall people turn off their sprinkler systems you'll see some recovery, it's pretty dramatic at times. We are trying to decrease that long-term trend. We're going into a situation where the resource may not be there. There is some development to the South that uses sandstone that are existing Ag permits that they are going to replace and use less water than the Ag permit. That may help some rebound there as well.

Mr. Mercer asked how they are going to enforce if someone is overwatering? Mr. Ottolino replied that Code Enforcement and other officers in the County will be enforcing this. They will get a warning first, however, what the County is doing is trying to get a Public Education message out first, and hopefully it would be a voluntary compliance and the public would want to protect our resources.

Mr. Mercer asked if sprinkler companies and people that are licensed to do the work would be aware of the changes in the watering hours. Mr. Ottolino stated that this is part of the Education program that they want to get out to the public.

Mr. Reitman asked about deep-water injection wells, and if it would impact business? There was a brief discussion with Mr. Ottolino about the wells.

Mr. Hagan asked is there a reason that it is only during the dry season and why couldn't it be year-round. Mr. Ottolino replied stated it is year-round for two days a week and do see recovery during the wet season so if some need additional water it would be available

band encourage people to use as minimal amount as they necessarily need.

Ms. Hayden asked about nursery owners, and if they would they be bound by this as well?
Mr. Gillogly replied if they use drip systems, then they would be exempt.

Mr. Roeder stated he remembers something about the Governor making funds available for septic tank conversions. Mr. Mora stated that Lee County was allocated monies from the Governor to address septic and sewer and we had two planned projects in neighborhoods with a total of 125 septic systems to convert to some other alternative, however, it was not enough money to address the entirety of our issue. This conversion is extremely expensive particularly if we don't have the infrastructure already in place.

Mr. Sam Hagan asked about page 4, sub section 10, 11.23, and if the time limits apply to landscaping as well or can you do it anytime you want. There was a brief discussion with Mr. Mora responding.

Mr. Mercer asked if there were any comments or questions from the board. There was none. Mr. Mercer asked if there was a motion to move this forward as written. Mr. Roeder made a motion, Ms. Hayden seconded. The vote was called. Motion carries unanimously.

The next meeting is tentatively scheduled for Wednesday, January 10, 2024
There was no further business.

Mr. Randal Mercer adjourned the meeting at 2:31 p.m.