

MINUTES REPORT
EAGLE TECHNICAL ADVISORY COMMITTEE (ETAC)
Tuesday, May 14, 2024

Committee Members Present:

Edward Elms

Betsie Hiatt, Vice-Chair

Kyle Philpot

Jacob Taminosian

Excused/Absent:

Laura Greeno, Chair

Lee County Government Staff Present:

Nic DeFilippo, Planning

Janet Miller, DCD Admin

Amanda Swindle, Assistant County Attorney

Outside Consultants

Christian Casey (Atwell LLC)

Call to Order:

Ms. Hiatt, Vice Chair, called the meeting to order at 3:02 p.m. in the First Floor Conference Room 1B, of the Community Development/Public Works Building, 1500 Monroe Street, Ft. Myers, Florida. Introductions were made.

Agenda Item 2 – Christian Casey with Atwell LLC to Present Bald Eagle Management Plan for LE-124 Park 41 Gardens DOS2007-00201

Mr. Christian Casey with Atwell LLC gave an overview of Bald Eagle Management Plan for LE-124.

Mr. Elms noted the nest on this site was abandoned. In speaking with a representative from Verizon, they stated that another carrier uses Verizon's tower. The nest was removed. The eagles did not come back this past nesting season. He asked how many years it takes before a nest is declared abandoned.

Mr. DeFilippo stated that for a nest to be considered "lost," the nest must come down due to natural causes and not rebuilt within 3 nesting seasons. For a nest to be considered "abandoned," it would have to be inactive or in disrepair for 5 or more nesting seasons. The nest on this site has several more nesting seasons before it will meet either of those definitions.

Ms. Hiatt asked for confirmation that the nest was removed by another carrier using the Tower.

Mr. Elms stated he did not have proof that it was physically removed, but the nest was in place for many years. After the last nesting season, it disappeared. He believed Ms. Sweigert was the one that initially thought it could have been removed by workmen when they were doing work on the tower.

Mr. DeFilippo stated that typically they obtain a permit from US Fish and Wildlife Service prior to removing a nest from a tower. He noted this has happened in the past with a nest that was off of Corkscrew Road.

Mr. Philpot asked if it still must wait 3 years to be considered "lost" if someone obtained a Take Permit to remove a nest.

Mr. DeFilippo stated that was correct. It still needs to wait 3 years to be considered "lost."

Mr. Philpot asked if the coordination with US Fish and Wildlife was included in the management plan.

Mr. Casey felt there was a brief mention about it.

Mr. Taminosian noted that with past plans that information is affixed.

Ms. Hiatt asked if the correspondence was via e-mail.

Mr. Casey stated it was handled by e-mail.

Mr. Philpot stated that typically that information is included in the management plan. He was not certain if it being on record today was enough.

Mr. Taminosian concurred with Mr. Philpot that this correspondence is typically included. Although there is nothing in the ordinance stating that it must be included, it was his preference that it be provided to this Board and staff, so it is part of the record.

Ms. Hiatt stated that even though this Board is requesting that information, it does not mean it will delay today's vote.

Mr. Casey agreed to provide the correspondence to Mr. DeFilippo so that it can be attached to the Management Plan.

Mr. Elms referred to Page 4, Item A. 330 Fee Zone Activities and Restrictions. It mentions the "construction of a berm." He asked if there were any plans for any type of plantings. He noted that if you construct a berm without having anything to grow there, it typically erodes quickly.

Mr. Casey stated he believed the area would be sodded, but he was not certain whether there would be any trees planted there.

Mr. Elms asked when they were planning to start construction.

Mr. Casey believed they were looking to start clearing and doing work outside of the 660 feet zone soon (a few weeks or so) once they have everything in order.

Mr. Taminosian referred to Page 4 where it says, "If the nest is not active by March 15th or as confirmed by DES, then the nesting season for Nest LE124 shall be considered over and the construction restrictions shall not apply." He asked where the date of March 15th was derived from.

Mr. DeFilippo stated he had seen a date listed in other management plans.

Mr. Philpot recommended a change in verbiage. Instead of saying “March 15th or as confirmed,” it should say “March 15th and confirmed.” This way the coordination is a requirement.

Ms. Hiatt stated this Board wants to ensure that the applicant coordinates with the Department of Environmental Sciences before they move forward but “or as confirmed” gives the leeway that it could be before March 15th.

Mr. Philpot stated it could be put in parentheses as well.

Ms. Hiatt stated she wanted to give the applicant the option of contacting the Department of Environmental Sciences before March 15th if it made good scientific sense.

Ms. Swindle stated the “and” language makes the applicant wait until March 15th. If the Board wants the applicant to have more leeway, an option would be to say, “If the nest is not active by March 15th or earlier as confirmed by the Department of Environmental Sciences.” March 15th gives a date certain versus if you want it earlier you need confirmation. She asked if the Board wanted to require confirmation after the March 15th date.

Ms. Hiatt stated the Board does want to require confirmation after the March 15th date.

Ms. Swindle stated that is where the “and” comes in. “If the nest is not active by March 15th or earlier and confirmed by the Department of Environmental Sciences....” However, since everyone understands what it means, she was not certain the language needed to be changed.

Mr. DeFilippo stated the way it is currently written is how it has been implemented in the past as staff and the applicant work together to determine if the nest is active or inactive.

Ms. Hiatt asked the Board if the language could remain as is. It’s on the record as to what this Board’s intent is. The Board agreed.

Mr. Taminosian referred to Page 4, Item A1. Jacob – A. 1. Under “330 Feet Zone Activities and Restrictions.” He asked if the language “while the nest is not active” should be added. He stated a nest can be active outside of the non-nesting season.

Mr. Philpot felt it should be conducted while the nest is not active instead of saying “during the non-nesting season.”

Ms. Swindle suggested saying “during the non-nesting season and when the nest is inactive.”

Mr. Elms concurred stating that the nest could be active before or after the specified dates.

Ms. Hiatt stated there is typically a note that says “or if nesting commences sooner or later.” This could be added in parenthesis. “...shall only be conducted during the non-nesting season (i.e. May 16th – September 30th or earlier or later if nesting is still active).

Ms. Swindle suggested it say “...shall only be conducted during the non-nesting season (i.e. May 16th – September 30th or as determined by nest activity).

The Board preferred that verbiage.

Ms. Hiatt asked for confirmation that the applicant had been onsite doing protected species surveys starting in December 2023.

Mr. Casey stated that was correct.

Ms. Hiatt asked for confirmation that they did comprehensive surveys of the entire site and did not observe eagles using the site.

Mr. Casey stated that was correct. A crew of 5 were on the property to conduct a gopher tortoise survey. The crew was 20 feet apart and touched every piece but did not see any eagle activity out there.

Ms. Hiatt asked if the property had any potential perch trees (large pine trees or cell tower like trees).

Mr. Casey stated the northwest corner has decent size trees as well as a little on the southern property line.

Ms. Hiatt asked about the preserve area.

Mr. Casey stated that information was included in the packet. He noted there was a Development Order site plan with the eagle's nest on it. The preserve runs along the southern boundary. That is the entire preserve.

Ms. Hiatt asked how large an area it was.

Mr. Casey stated the preserve is approximately 20 acres.

Ms. Hiatt stated she could not tell from the materials what the intent is for this property. She asked if they had a conceptual permit allowing them to clear, grade, fill, and excavate. She also asked if they plan to do a future phase of development or is it just going to be infrastructure and then platted lots?

Mr. Casey stated that as of now their Development Order is several years old. They can clear and put the stormwater system in. They are still working on the site plan for moving forward with building and design, but for now they only want to work under the Development Order so they can get the project started.

Ms. Hiatt asked for clarification that it was not merely a matter of lots being platted and sold off. There is a future development phase.

Mr. Casey stated that was correct.

Mr. Philpot made a motion to approve the Bald Eagle Management Plan (LE-124) for Park 41 Gardens (DOS2007-00201) with a few stipulations; 1) Coordination with the US Florida Fish and Wildlife be added to the report; 2) Page 4, Section A.1. the construction activities initiated in 330 be clarified to include that it cannot happen while the nest is active not just

during non-nesting season, seconded by Mr. Taminosian. The motion was called and passed 4-0.

Agenda Item 3 – Approval of Meeting Minutes from April 9, 2024

Mr. Elms made a motion to approve the April 9, 2024 meeting minutes, seconded by Mr. Philpot. The motion was called and passed 4-0.

Agenda Item 4 - Member Reports

Ms. Hiatt asked if Lee County staff had any reports.

Mr. DeFilippo stated he did not have anything to report. He also stated that he would put together a list of nests that meet the lost or abandoned definition for ETAC's review at an upcoming meeting. This will be done before next nesting season.

Jacob Taminosian

St. Charles Harbor (LE-002) – There was a high wind event and one of the Pine trees that was next to the nest tree blew down, but the nest tree still appears to be present. The nest was no longer intact but one of the fledglings flew and perched on the nest tree. Therefore, he considered this nest to be successful for the nesting season. Although he did not see the other chick, he assumed it fledged as well.

Yorkshire (formerly known as Robalo) (LE-069) – He believed this nest has been relocated. In April there was one chick (approximately 9-11 weeks old). This Saturday both chicks were still in the nest, but they were high above it in the branches, which makes it seem as if they were flight capable. He felt this was a successful nest for the 2023/2024 nesting season. The nesting tree is a good, strong tree and is more visible from Yorkshire.

Pub and Pickle (LE-071A) – This nest had one chick confirmed that has fledged.

Lexington Middle School (LE-105) – This nest had two chicks fledged so this nest was successful for the 2023-2024 nesting season.

Sora Drive (LE-117) – Mr. Taminosian stated he had documented incubating behavior on two different occasions and wondered if they double clutched. It is confirmed that they did and there are two chicks in the nest (approximately 5-7 weeks old). Mr. Taminosian stated he would continue monitoring this nest until the chicks fledge, which might take place in June.

Ms. Hiatt asked when he thought this pair started incubating.

Mr. Taminosian believed it was around February 24th.

Mr. DeFilippo stated he saw them in late March.

Betsie Hiatt

Little Pine Island Mitigation Bank - Ms. Hiatt stated the Little Pine Island Mitigation Bank has two historic nests. While working on a survey for the Pine Island Shared Use Path project, she could not locate the nest. However, she has seen eagles in the area.

Mr. Taminosian stated he would need to see if his company was still under contract. If so, he might check the nest.

Ms. Hiatt stated she had driven down to that area while working on surveys for FDOT and it looked like an adult was brooding.

Chelsey Drive in Bokeelia – Ms. Hiatt discussed this nest last month and provided an update. There are two fledged eagles, but one of them is unable to fly. It appears to have something wrong with its left wing. A volunteer from Peace River was unable to catch him. Finally, a volunteer from CROW was able to rescue the eaglet and bring it to CROW's facility. Ms. Hiatt stated she would have an update soon. Hopefully, the eaglet can be rehabilitated.

Edward Elms

Pine Island Flatwoods Trail (LE-982) – Two chicks fledged.

Galt Preserve (LE-102) – Two chicks fledged.

Helipad Nest – one chick fledged.

Ms. Hiatt stated she had two matures in her neighborhood located close to where the Bank of America nest used to be. The eagles were perched together.

Mr. Elms asked if she had slash pines on her property.

Ms. Hiatt stated there were many slash pines in her neighborhood.

Agenda Item 5 – Public Input

No members of the public were present, so there was no public input.

Agenda Item 6 – Adjournment – Next Tentative Meeting Date: June 11, 2024

The meeting adjourned at 3:37 p.m.