

**MINUTES REPORT  
EAGLE TECHNICAL ADVISORY COMMITTEE (ETAC)  
Tuesday, September 10, 2024**

**Committee Members Present:**

Edward Elms

Laura Greeno, Chair

Betsie Hiatt, Vice-Chair

Kyle Philpot

Jacob Taminosian

**Lee County Government Staff Present:**

Nic DeFilippo, Planning

Michael Jacob, Deputy County Attorney

Janet Miller, DCD Admin

Brian Roberts, Planning

Beth Workman, Zoning

**Outside Consultants**

Kristin Eaton with Florida Power & Light

Stacy Ellis Hewett, Atwell, LLC

Jessica Hannelson, Peninsula Engineering

Shane Johnson, Passarella and Associates

Steve Lung, Florida Power & Light

Bob Riling, Florida Power & Light

Barrett Stejskal, BearPaws Env. Consulting

**Call to Order:**

Ms. Greeno, Chair, called the meeting to order at 3:00 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 – Kristin Eaton with FPL to Present Bald Eagle Management Plan for LE-128  
Alico 37 MPD ADD2024-00049**

Ms. Eaton with Florida Power & Light gave an overview of Bald Eagle Management Plan for LE-128.

Mr. Taminosian referred to the enhanced buffer area and stated he appreciated it being included in the Bald Eagle Management Plan. He asked if it was required by the county or if they went above and beyond.

Ms. Eaton stated it was required by the county.

Mr. Taminosian asked for clarification that they do not currently have a general permit.

Ms. Eaton stated that was correct. They do not have a general permit. She noted it was a self-certification type of permit process and it is only valid for one year. Because of this, they are waiting until they get closer to the construction timeline before applying for the permit. She stated they will be able to continue applying for the permit if construction is on-going. In this instance, they anticipate that construction will most likely take more than a year. They plan to continue to monitor the nest before beginning construction.

Mr. Philpot referred to Section V. Implementation of the Bald Eagle Management Plan where it lists IIa.1 and IIa.2. He believed it should also say IIa.3.

Ms. Eaton acknowledged they had added another section but forgot to update the document.

**Mr. Taminosian made a motion to approve the Bald Eagle Management prepared by FP&L for the Three Oaks Service Center for Nest LE-128. The motion was seconded by Ms. Hiatt. The motion was called and passed 5-0.**

**Agenda Item 3 – Barrett Stejskal with BearPaws Environmental Consulting to Present Bald Eagle Management Plan for LE-043D Home Front Heroes Minor CPD DCI2023-00047**

Mr. Stejskal with BearPaws Environmental Consulting gave an overview of Bald Eagle Management Plan for LE-043D Home Front Heroes Minor CPD DCI2023-00047.

Mr. Taminosian noted that at the end of the report it says, *“The applicant will not be obtaining a take permit from USFWS as a majority of the property is located outside of the 330-foot buffer zone.”*

Mr. Stejskal stated they had no plans to apply for a take permit from US Fish and Wildlife Service because they felt it was not necessary since there will be very little construction and disturbances within the site. The land clearing effort is basically all that is being proposed within the 330 foot zone. In addition, there is a structural buffer being proposed as well as a landscape buffer (i.e. there will be a 30-foot buffer along the south side that they plan to plant with trees).

Mr. Philpot stated there was a similar proposal brought before ETAC with a detention area within the 330-foot buffer, but no standing construction planned yet they still provided correspondence in their management plan. He noted it might be something the Committee chooses to include as part of their motion. Although US Fish and Wildlife Service may determine that a permit is not needed, he felt they should be given the opportunity to make that determination.

Ms. Hiatt asked Mr. DeFilippo to zoom in on the aerial map to show where the dry detention area is located.

Mr. Stejskal stated there are some large oak trees that are located on the south side and the east side of the detention area. The detention area is proposed in the far southeast corner. They will attempt to preserve the large trees that currently exist as much as possible so that they can maintain the buffer that is currently there. In addition, they plan to enhance it with other plantings.

Ms. Hiatt felt this project might qualify for a US Fish and Wildlife Service general permit.

Mr. Philpot concurred but reiterated that he felt the US Fish and Wildlife Service should be given an opportunity to make that determination.

Ms. Hiatt noted that Mr. Stejskal could e-mail the US Fish and Wildlife Service and give them the specifics of their project so that they can make a recommendation on whether this project can apply for a general permit or an incidental take permit. She stated that Mr. Philpot could make it a condition of the Committee’s motion.

Mr. DeFilippo asked Mr. Philpot if he wanted the correspondence added to the management plan.

Mr. Philpot stated that would be his preference.

Mr. Stejskal stated that the permit itself is for Homefront Heroes. It is their organization but they are part of the Lee County Sheriff's Office.

Ms. Greeno asked Mr. Philpot if this matched his nest history.

Mr. Philpot stated he is unable to access the property. He has to monitor the nest from the road or from the northwest of where it is right now. As a result, he has not been able to see much, so he has to assume the information included is correct.

Ms. Hiatt asked if these were the same eagles that used to be over by the school.

Ms. Workman clarified these eagles belong to the Moody River Estates Nest.

Mr. DeFilippo showed the Committee where the nest is on the aerial.

Ms. Hiatt stated she thought she heard that the site the nest is on was voted for negotiations for a Conservation 2020 purchase.

Mr. DeFilippo believed the Board of County Commissioners approved the purchase of that.

Ms. Workman stated that the purchase of the land is what requires the 30-foot buffer. Now that the land has been purchased, it trips the threshold for a 30-foot buffer.

Ms. Stacy Hewitt from Atwell, LLC stated there is an existing 10-foot access easement to the property to the east that is not owned by them, and they have no control over what happens within those 10 feet. The owners have an access easement of 10 feet that abuts this project's south property line. If they choose to develop it, it is out of this property owner's control. This proposal includes a 10-foot planting area. They adjusted some of their dry detention to accommodate it. There will be plantings and dry detention on the other side to make up a 30-foot buffer. The 30-foot buffer includes the 10-foot easement, the 10-foot planting strip, and then the dry detention.

Mr. Stejskal stated they plan to use oaks and slash pines because they get larger and provide a good buffer.

Ms. Workman stated that for the dry detention area Zoning is putting in a condition that there must be plantings that are comprised of herbaceous plants.

**Mr. Philpot made a motion to approve the Bald Eagle Management Plan for LE-043D Home Front Heroes Minor CPD DCI2023-00047 with the condition that coordination takes place with the US Fish and Wildlife Service and that the correspondence is incorporated into the management plan and that native trees with 330 feet of the nest are kept in place as much as possible. The motion was seconded by Mr. Elms. The motion was called and passed 5-0.**

**Agenda Item 4 – Shane Johnson with Passarella & Associates to Present Bald Eagle Management Plan for LE-137 Emerald Lakes DOS2024-00032**

Mr. Taminosian announced he had a voting conflict for this item because he is an associate of the presenter for the nest (Passarella & Associates). He will abstain from the vote. He completed the appropriate Voting Conflict form and submitted it to Lee County staff in advance of today's meeting.

Mr. Shane Johnson with Passarella & Associates gave an overview of Bald Eagle Management Plan for LE-137 Emerald Lakes DOS2024-00032.

Ms. Hiatt asked if they were proposing construction within the 330 feet during nesting season after they obtain the Incidental Take Permit.

Mr. Johnson stated they would not be doing the work within 330 feet during nesting season, which is further stated in the management plan.

Mr. Elms asked if it is typical for individuals to submit and seek approval of a Bald Eagle Management Plan before they obtain an Incidental Take Permit or if it was on an individual basis.

Ms. Hiatt stated that it is on an individual basis. There are times when someone has already obtained their Incidental Take Permit, and it is part of their management plan. Other times, applicants have not obtained the Incidental Take Permit yet and ETAC adds a condition to their motion stating that an Incidental Take Permit must be obtained and should be incorporated into their management plan as was done with the previous case.

Mr. Elms asked if staff would be notifying ETAC once the Incidental Take Permit is approved.

Mr. DeFilippo was not certain that there was something in place that would trigger them to provide the update to staff and incorporate the new conditions into the Bald Eagle Management Plan.

Ms. Greeno stated that if this Committee approves this Bald Eagle Management Plan and make it contingent upon getting an Incidental Take Permit and having it included in the management plan, there is a chance the Incidental Take Permit might have more restrictions than what is currently in the management plan. The applicant will have to meet those added restrictions along with what is currently included in the management plan, so she did not believe it would need to be brought back before this Committee. If the Incidental Take Permit requires less, they have already agreed to do what is included in the Bald Eagle Management Plan being presented today.

Mr. Elms asked if this meant that ETAC would not need to put in their motion that the approval is contingent upon the approval of the Incidental Take Permit.

Ms. Greeno stated he was welcome to make that part of the motion.

Mr. Elms asked for confirmation that this nest was only observed this year.

Mr. Johnson stated that was correct. They did not observe it until this year because they did not start work on the property until early this year.

Mr. Elms stated that even though he has not seen the nest, he knows residents who live in Tara Woods. Although they are only lay observers and not professionals, they claim that the nest has been occupied, active, and successful for several years.

Mr. Johnson stated he could only include the history that was available. Regarding the Incidental Take Permit, the applicant is responsible for adhering to the most restrictive whether it be the management plan or the incidental take permit.

Mr. DeFilippo referred to the larger shaped lot to the west of the 100-foot buffer and asked if there was an intended use for it such as open space or a dog park. He noted that if it was used for open space it would allow for a naturally larger buffer.

Mr. Johnson stated he did not know what its intended use would be, but he knew it would not be a residential lot because it is not deep enough given the fact that the 100-foot buffer pushes out to the west. It might just be used as open space, but he was not certain at this time.

Ms. Greeno referred to Item 6 and asked for clarification that a freshwater marsh is going to be created near the eagle nest.

Mr. Johnson stated that was correct. The details of that are not in this management plan because it will be part of the development order. He also noted that the nest is no longer in the tree. The nest was first observed in February of 2024 and was active at that time with two adults and two chicks. However, there was a storm that occurred in April of 2024 that blew the nest out. He noted there was at least one eaglet that fledged by the nest. It was seen by a farmer. It is assumed that the other chick fledged as well prior to that storm, but the tree is still protected by US Fish and Wildlife Service within the buffers.

Ms. Greeno asked if anyone had been onsite recently.

Mr. Johnson stated they would be onsite tomorrow and Thursday of this week. They plan to monitor the nest for the next 4-6 weeks. Hopefully, the eagles will return. If so, they will document it.

Ms. Greeno asked if the conservation area would be fenced off or if anyone would be able to access the area near the eagle's nest.

Mr. Johnson stated there would be a buffer planted on the east side (north/south), but he did not believe that a fence was proposed.

Ms. Hiatt asked if it was a conservation easement.

Mr. Johnson stated it was under an existing conservation easement.

Ms. Hiatt asked if it allowed for passive recreation.

Mr. Johnson did not believe it allowed for that.

Ms. Hiatt acknowledged that the plan did not show any paths or anything like that.

Ms. Greeno noted that in the management plan there is mention of creating a marsh separate from this plan. She asked if the created marsh was going to happen outside of the nesting season or if it would be part of this plan.

Mr. Johnson stated it would be done in the non-nesting season.

Ms. Hiatt stated this is confirmed in Item 7.

Mr. Johnson stated that, per the development order, the marsh is considered restoration, so the marsh ties into the development order. It is specific to areas within 330 feet, but portions of the marsh fall within 330 feet and 660 feet. Because of this, it does not make sense to create a portion of it and do the rest later. It will most likely be done at one time during the non-nesting season.

Mr. Elms asked for confirmation that the conservation area is dedicated to the state.

Mr. Johnson confirmed that the conservation easement is through the South Florida Water Management District.

Mr. Elms stated he could understand Ms. Greeno's concerns that with increased population, people might go through that area with their ATVs. He did not believe there was any way to prevent it.

**Mr. Elms made a motion to approve Bald Eagle Management Plan for LE-137 Emerald Lakes DOS2024-00032. The motion was seconded by Ms. Hiatt. The motion was called and passed 4-0. Mr. Taminosian abstained.**

Mr. DeFilippo stated he would notify Shane Johnson once this item is on the Board agenda.

The Committee had a conversation on consistency since the rules have changed federally. In the past, 330 feet was the trigger for requiring an Incidental Take Permit from the US Fish and Wildlife Service so that correspondence from them could be obtained and included in the management plan. The Committee discussed possibly making this a requirement for applicants to obtain a general permit even if they are 660 feet from an eagle's nest. This is in an effort to be consistent with all applicants that there has to be federal correspondence included or they must indicate that they are planning to have that type of coordination before groundbreaking. Even if they are 660 feet from a nest, they could still have an impact on the nest.

Ms. Greeno asked Mr. DeFilippo if he instructs applicants to coordinate with the US Fish and Wildlife Service and obtain an Incidental Take Permit if necessary, when they first contact him about their bald eagle management plans.

Mr. DeFilippo stated he does have these discussions with all applicants and instructs them to include correspondence as part of their plans. However, it is not in the Land Development Code, so he is unable to prevent them from coming to ETAC without it. Mr. DeFilippo stated that he still stresses to them that it might be a factor in this Committee's decision-making process. This is something he will continue to do with all applicants.

Mr. Taminosian asked if this Committee had any recourse if an applicant refuses to follow these steps since it is not in the Land Development Code. In other words, can this Committee deny their bald eagle management plan on these grounds?

Mr. DeFilippo stated they can. ETAC can state that they do not feel they have enough information to make a recommendation. Mr. DeFilippo also noted that he instructs applicants to incorporate visual buffers. This information is not always part of Incidental Take Permits, but it is something extra that ETAC does.

Ms. Workman stated that as part of her zoning process, she also notifies applicants that they must go before ETAC and what they will need to provide.

#### **Agenda Item 5 – Approval of Meeting Minutes from May 14, 2024**

Ms. Hiatt referred to the first paragraph under “*Little Pine Island Mitigation Bank*” on Page 6 of 6 and stated that “*Charities*” should be replaced with “*Shared Use Path*.” The sentence should read, “*While working on a survey for the Pine Island Shared Use Path project, she could not locate the nest.*”

Mr. Elms referred to “*Helipad Nest*” on Page 6 of 6 and stated that the word “*on*” should be “*one*.” It should read, “*one chick fledged.*”

Mr. Taminosian referred to the second paragraph on Page 6 of 6 under “*Little Pine Island Mitigation Bank*” where it says, “*If so, he will monitor the nest.*” He did not recall committing to that and stated it should read, “*If so, he might check the nest.*”

**Ms. Hiatt made a motion to approve the May 14, 2024 meeting minutes with the above corrections. The motion was seconded by Mr. Taminosian. The motion was called and passed 5-0.**

#### **Agenda Item 6 – Nest Abandonment Determination for LE-018A, Manatee Bay Nest**

Mr. DeFilippo reviewed the Manatee Bay Nesting History report and noted that this nest meets the abandonment requirements and abandonment definition. No activity for 6 years.

**Mr. Elms made a motion that we consider LE-018A as abandoned. The motion was seconded by Mr. Taminosian. The motion was called and passed 5-0.**

#### **Agenda Item 7 – Nest Lost Determination for LE-061, Gloria & Cubles Nest**

Mr. DeFilippo reviewed the Gloria & Cubles Nesting History. No activity since 2017/2018.

Due to questions by the Board, it was determined that the proposed “abandonment” determination is supposed to be “*lost*.”

Ms. Hiatt gave some background information as well because she used to monitor this site.

**Ms. Hiatt made a motion to declare LE-061 a lost nest. The motion was seconded by Mr. Philpot. The motion was called and passed 5-0.**

### **Agenda Item 8 – Nest Lost Determination for LE-107, Pacosin Dr Nest**

Mr. DeFilippo reviewed the Pacosin Dr Nesting History. He noted it was also not “*abandoned*” but “*lost*.” No activity since 2020 and the nest and tree are gone.

Ms. Hiatt stated she used to monitor this nest as well and provided some background information.

Mr. DeFilippo stated that this nest had a Bald Eagle Management Plan (Pineland Marina).

Mr. Taminosian asked if Pineland Marina would be notified if it is deemed lost.

Mr. DeFilippo stated that was correct. They will be notified.

**Mr. Taminosian made a motion to deem nest LE-107 the Pacosin as lost. The motion was seconded by Mr. Elms. The motion was called and passed 5-0.**

### **Agenda Item 9 – Nest Assignments for 2024-2025 Season**

Mr. DeFilippo noted that a list such as this has not been completed for several years. It is a list of all of our active nests and who is assigned to each one. Mr. DeFilippo noted he added two new nests. The first is Waterman Farms and it has been assigned to Jacob Taminosian since Passarella and Associates presented the plan. The second is Sabal Springs which has been assigned to Mr. Philpot. It is located in North Fort Myers. Mr. DeFilippo showed the location on the aerial. He also indicated that, although two of Mr. Elms nests are missing, they are still on the list so that they can continue to be checked.

### **Agenda Item 10 - Member Reports**

The Board had no member reports.

### **Agenda Item 11 – Public Input**

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

### **Agenda Item 12 – Adjournment – Next Tentative Meeting Date: October 8, 2024**

The meeting adjourned at 4:22 p.m.