

**Minutes of the Myakka River Management Coordinating Council  
North Port City Hall  
4970 City Hall Blvd., Room 244  
North Port, Florida 34286**

**September 17, 2010  
9:10 A.M. – 12:40 P.M.**

**MINUTES**

The meeting began at 9:10 A.M. with Maran Hilgendorf presiding. Introductions were made. Notice of meeting was advertised in the Herald Tribune and the Florida Administrative Weekly on Friday, September 3, 2010.

**MEMBERS IN ATTENDANCE**

Greg Blanchard-Manatee County	Jerry Cattelane - Homeowner
Jono Miller-Sierra Club	Allain Hale - ECOSWF
Tom Moralee-Venice Campground, Inc.	Susan Hochuli - PRMRWSA
Elizabeth Wong-City of North Port	Tom Williams-DOF
Maran Hilgendorf – CHNEP	John Dzuiba-Homeowner
Peter Perez - City of Sarasota	Mike Chouinard - Homeowner
Belinda Perry – Sarasota County	Lou Kovach-Homeowner
Ed Flowers-DOF	Betsy Roberts-Manasota 88
Jim Beaver-SWFRPC	Mary Jelks-Friends of Myakka River
Kevin Kemp-FWC	Peggy Morgan-DEP
Bob Arredondo-Fl. Dept. of Community Affairs	

**INTERESTED PARTIES**

Natalie Balcer-FPS	Jim Thomson-CHEC
Diana Donaghy-Myakka River SP	Robert – student intern
Susan King-DOT	Lt. Todd Hand-DEP
Judy Meents-FPS	Gregg Poulakis, FWC
Kaley Miller-Mosaic	Sid Flannery-SWFWMD

**There were no changes to the Agenda or public comments.**

**Updates:**

**Belinda Perry – Environmentally Sensitive Lands Update**

The ESL program acquired 7741 acres of land in Sarasota County on two different parcels. This added significantly to the goal of having an ecological corridor in place from Desoto County to the Myakka River. One property is known as Walton Ranch. The County and SWFWMD purchased 3700 acres for \$22.5 million. The property is located

immediately west of Longino Ranch. The acquired section of the Walton Ranch connects to the Carlton Reserve. The County plans to provide public access once the land to the east is under public ownership.

The Longino property closed August 19, 2010 with 3900 acres. The County partnered with SWFWMD to purchase the property for \$14.55 million. The conservation easement on Longino provides some public access, however now the County will be able to work on a regional trail system from the SWFWMD RV Griffith property into Desoto County and across to the Myakka River up into Manatee County.

Sarasota County is continuing to work on acquiring additional properties in the Myakka River Basin.

Questions and answers followed.

### **Maran Hilgendorf – Charlotte Harbor National Estuary Update**

The Charlotte Harbor Watershed Summit is coming up again next year and the Charlotte Harbor Nature Festival will be held in November. The calendar is currently being developed. Approximately 28,000 copies are expected to be printed. The printing should be completed in late October. Public outreach grants up to \$5,000 and microgrants up to \$250 are now available.

### **Natalie Balcer – Biologist's Report**

Natalie gave an update on behalf of Diane Davies regarding the 2012 Cooperative Funding.

A Yellow-billed Cuckoo was seen during a recent river inspection near the SR 72 Bridge. This was the first recorded observation of this species in the park. Tilapia and sailfin catfish have not been spotted as much since the freeze last winter and native fish sightings are on the rise.

A permit to install a boat lift south of Ramblers Rest was issued in Sept. Other upcoming projects include the Snook Haven dock renovations and the SR 72 Bridge replacement.

A zip-line has been installed across the river north of Border Road. The property owner has been notified to remove the line. The far end is on the Carlton property and could be dangerous to boaters going too fast. The canal near Dixon Road was excavated earlier this summer. Although the County did the excavation work, it was not permitted through the Dept. of Natural Resources.

The management plan update is ongoing. Some research has been conducted on completing a carrying capacity study.

At the last meeting there was some interest in obtaining water quality data on Myakkahatchee Creek due to the Pine Level Mine so City of North Port and Sarasota

County data was made available. Natalie also mentioned that she hoped to have a Mosaic representative attend the next meeting.

### **Lt Hand – River Rule Decriminalization**

Presently officers are reluctant to give out tickets for minor violations since that would cause violators to receive criminal records for minor offenses. Decriminalizing the river rule would increase enforcement and make officers more likely to issue a citation. Fines would be put in place for some offenses where appropriate instead of violators receiving a second degree misdemeanor for every violation. Currently in state parks there are 3 tiers of fines which increase accordingly each time a violator is caught. The decriminalization of the River Rule must be passed by the legislature.

Lt. Hand stated that the decriminalization would be modeled from what was done a few years ago in state parks.

Questions and answers followed and it was agreed that more discussion would occur once Valinda arrived. Comments were made that the new river rules should go through this Council.

### **Presentations:**

#### **Gregg Poulakis, FWC – Endangered Smalltooth Sawfish in the Lower Myakka**

FWC has been working on this expanding project for the last five years. The public has not caught many sawfish in the Myakka compared to the Peace River and the Caloosahatchee therefore most of the presentation dealt with Charlotte Harbor.

The smalltooth sawfish was protected from harvest in 1992 and listed on the Federal Endangered Species Act in 2003. Commercial fisheries did not target the sawfish but they were a byproduct in gill nets and used for their liver. Recreational fisheries also contributed to the decline. It is thought that the species does not mature until they reach a length 8 – 10 feet. They spend about 2-3 years in shallow areas < 1 meter deep around the river mouth. The larger sawfish are offshore in the deeper water of at least 200-400 feet. The juveniles are double in size by the end of their first year and are roughly 5 feet long.

Recently a scientific paper determined that the sawfish was no longer considered to be a functional member of the ecological community so FWC started a public encounter report database. They placed sawfish posters at boat ramps, bait shops etc. which encouraged people to call if they caught or saw one. In 2009 all the reports in the Charlotte Harbor system were located around Caloosahatchee River and the upper harbor. Most reports are juveniles. Occasionally some are reported around Sanibel Island and Ft. Myers Beach. A national encounter database located at the Florida Museum in Gainesville is currently being expanded on.

FWC places fin tags with the hotline number on the fins of the sawfish. They also use PIT tags injected below the skin which stays with the fish its whole life to help determine growth rates, and acoustic tags the size of AA battery glued to the fin tag. The acoustic

are meant to go inside the body cavity, but with endangered species they are much more conservative.

The size range of sawfish being caught is 2 ½ - 7 feet up to about 2 years old, and about 150 have been tagged so far. Juveniles are born in November through July. A waxy sheath covers the teeth when born to protect the mother through the birthing process. It takes about two weeks for the sheath to disappear.

FWC is starting to identify “hotspots” where sawfish are often seen and acoustic data supports these findings. Four different areas have been identified in the Caloosahatchee as hotspots. In the Peace River, the Harborview area between the U.S. 41 Bridge and I-75 Bridge has had multiple catches through the years. Canals in Cape Coral have also been used by the sawfish. The wet years of 2005/2006 most of the fish were caught in the lower part of the river by Tarpon Marina and Cape Coral Yacht Club. In the dryer years they have been caught all the way past the power plant in the Caloosahatchee showing that flow regime affects their movements. Larger fish, 5-7 feet, tend to prefer overhanging vegetation areas in the Caloosahatchee.

Graphs and charts were used to show concentrations of the sawfish as it related to flow, salinity etc. The sawfish tend to move depending on the flow and salinity. The smaller size class, 2 ½ - 5-foot, tend to stay in an area with high flow and less salinity for two months or so and then move, while the 5 -7-foot size class stay twice as long. Another reason sawfish might be moving is prey fish which move on the same lags as the sawfish.

Questions and answered followed.

#### **Break- 5-10 minutes.**

#### **Sid Flannery, SWFWMD – Minimum Flows for the Lower Myakka River**

Minimum flows are established by Florida Statutes. Minimum flows are defined as the limit at which further withdrawals would significantly harm water resources or ecology. Minimum flows have been determined for the Peace River and the Upper Myakka River. The Lower Myakka River below Myakka Lake was the focus of Sid’s presentation.

The Myakka watershed is 602 square miles. About 59% of the watershed flows to the Lower Myakka River. An important tributary to the lower river is Myakkahatchee Creek. The Blackburn Canal, excavated in the middle 1900-1950s connects the Lower Myakka River to Roberts Bay. SWFWMD started getting flow records on Blackburn Canal in 2004. Most water in the Blackburn Canal flows away from the Myakka towards Donna Bay. The canal flows towards the Myakka about 10% of the time. Blackburn Canal flows plotted against Myakka River flows at the Sarasota gauge revealed once flows in the Myakka are > 400 cfs, the Blackburn Canal flow drastically increases. Flow into Blackburn is typically between 12% and 18% of the flow at the Myakka River Sarasota gauge. It is important to note that the Sarasota gauge is only 38% of the Myakka River watershed.

The Myakka River was also impacted by the alterations to Cow Pen Slough, which used to flow into the Myakka below Lower Myakka Lake. Cow Pen Slough was excavated, dredged and drained. Approximately 10% of the entire Myakka River Watershed is now diverted to Dona and Roberts Bay via Cow Pen Slough.

There have been increasing flow trends in the upper river basin due to excess water mostly due to agriculture. 10-day flows began to increase in the late 1970's. These flows were zero in the 1940's and 1950's. The low, dry season flows in particular have increased resulting in the tree mortality in Flatford Swamp.

A MikeShe model (an integrated surface water/ground water model) was used to simulate a 12-year period using the existing land use in the 1950's compared to current land use. The same rainfall record was used with the two land use conditions to estimate excess flows the Myakka River receives as opposed to natural flows. In the dry season the Myakka River gets about 15 cfs or 10 million gallons per day of excess flow. There are high excess flows in the wet season too. Thirty-four percent of the flow in May is excess flow and 6%-10% excess flow during October through March.

A graphic of salinity was shown. The salinity at the mouth of the river during the dry season high of 22ppt, compared to 12ppt in the wet season. SWFWMD staff made isohaline models to predict the location of various salt concentrations of the river as a function of flow. The springtime is when the salt is furthest upstream the 2ppt salinity is at the beginning of the oligohaline wetlands.

Total flow adjustment includes removing excess flows, withdrawals from the City of North Port and 10% of the remaining flow; however SWFWMD model results indicated a 34 % reduction of marshes upstream of the median salinity. The low salinity zones are more susceptible to change due to flow reduction. The City of North Port permit has very little effect on the Myakka River due to small withdrawals which yield small salinity changes. Within the spring dry season when flows are low, if the excess flows were removed the model indicated a 21% reduction of the 2-5ppt salinity zone. When flows are high the percent reduction is reasonable but when < 30cfs, large reductions in areas less than 5 ppt salinity occur.

Fish research was done on the Lower Myakka River by FWC and USF. The river was divided into 7 zones starting at the mouth and ichtheoplankton and early larval and juvenile stages of plankton were sampled along with fish from seines and trawls within the 7 zones and Myakkahatchee Creek. They concluded the abundance of some fish and invertebrate species had a positive relationship with freshwater flow. In the spring hog chokers are the most sensitive since it thrives in oligohaline areas.

It could be argued that the river receives excess flow which is unnatural. Perhaps excess flow should be removed and the resulting flow should be the baseline but SWFWMD is not taking that approach. The baseline will be the existing conditions as they are right now since the upper river has been supplemented by excess flow but flow has also been removed due to Cow Pen Slough excavation and the Blackburn Canal.

SWFWMD defines significant harm as a 15% change in resources. Some numbers in the model were slightly above 15%, but these are considered acceptable. Until the flows get up to 400 cfs at the Sarasota gauge, excess flow plus 10% of the remaining flow for additional water supply can be removed until the flow becomes < 130cfs. Lower Myakka minimum flows will require hydrologic monitoring and adaptive management. SWFWMD will proceed carefully in quantifying how much water is taken out of the upper river basin for restoration and the effects on the lower river.

Myakkahatchee Creek contributes more flow to the Myakka River than previously thought. SWFWMD will adopt minimum flows for Myakkahatchee Creek within five years.

The report recommends that SWFWMD evaluate strategies to replace some lost flows to the lower river that have resulted from removal of the excess flows in the upper river. Some options include storing the excess water from Cow Pen Slough and put it into the river below lower Myakka Lake, using Tatum Sawgrass for storage in the wet season, or changing flows into Blackburn Canal.

Questions and answers followed.

The report is available on the District website and has gone out for scientific peer review. During this time his governing board can take comments. Potentially adoption could occur within two to three months. Maran suggested that Council might have to take action prior to the January meeting or the January meeting should be scheduled as early as possible.

**Call to Order and Roll Call:**

Peggy Morgan, Kevin Kemp, Bob Arredondo, Tom Williams, Ed Flowers, Jim Beever, Greg Blanchard, Belinda Perry, Peter Perez, Elizabeth Wong, Susan Hochuli, Maran Hilgendorf, Allain Hale, Mary Jelks, Betsy Roberts, Jono Miller, Mike Chouinard, Tom Moralee, John Dzuiba, Jerry Cattelane, Lou Kovach were all present.

**There were no Public Comments.**

**Other Agenda Items:** Jono asked Valinda Subic to clarify some of the rules for the decriminalization. He also asked that the minimum flow and its relationship to the initiative be added to the January meeting.

**Revision and Approval of Agenda Minutes:** On page 8 of the April 23, 2010 Minutes Longino is misspelled. Page 3, middle of the page, the correct year is 2011, not 2012. Jim Beever moved to approve the Minutes with the changes discussed. Allain Hale seconded. The Minutes were passed.

**New Business:**

### **Valinda Subic – Decriminalization Process**

The River Rule, 62D-15, is a document that indicates what is allowable on the river. The River Rule itself would not be changed but Section 258, Myakka River Wild & Scenic Designation Act would need to be amended since it states that violations of the River Rule would be a second degree misdemeanor. Decriminalization of the rule has been discussed internally and it does not appear that DEP is moving forward at this time. A legislative action would be needed for the decriminalization. If DEP were to move forward, sponsors for the legislation would be needed.

The decriminalization would make repercussions for some violations fee based instead of criminal violations. The changes would make it easier for law enforcement to take action, however the action has to be witnessed to issue a citation. Since 1991 only two violations have been pursued. In order to do this each one of the infractions of the rule would need to be reviewed to determine whether or not it would be a citation or left as a misdemeanor. A committee could be formed to work with the Council, the State Attorney's Office and Park Police to determine which violations would be appropriate for a citation and which would remain as misdemeanors. The fines associated with the citations would go back into the state park trust fund and would be collected through Sarasota County Clerk of Court.

Valinda suggested setting up a committee to begin looking into the details although the legislative committee wouldn't commence until next year so the Council could be ready to make the suggested changes if another agency decides to make changes.

Members who volunteered to be on the subcommittee included Tom Moralee, Jono Miller, Belinda Perry, Peggy Morgan, Susan Hochuli. Susan Hochuli volunteered to Chair this committee. There will be some report in January outlining the process.

### **Old Business:**

#### **Greg Blanchard – Nominating Subcommittee Update**

The nominating subcommittee (Greg Blanchard, Belinda Perry, Dianne Davies, Susan Hochuli) was formed to develop potential candidates for the Council's next officers. Many agency representatives on the Council can not serve as an officer due to Sunshine Rule conflicts and conflicts within their organization regarding policy making, etc.

All members were asked if they were willing to serve as an officer. The subcommittee met to go over the responses and develop a list of potential officers. Two people agreed to serve as officers in January elections: Jono Miller - Chair and Tom Williams - Vice-Chair. The subcommittee discussed reasons why the members of the public and homeowners would or would not serve as an officer. Greg reminded the Council that any member can abstain from a vote on an issue, even the Chair. Greg asked members to inform the subcommittee as to why you would not be willing or able to serve as an officer for the Council.

Maran stated if there was anyone else who would like to nominate himself or someone else as an officer, it could be done prior to the elections in January. She also would like to amend the bylaws so that elections occur at the September meeting so that the present officers who will reside over the meeting can prepare the next agenda.

#### **Jono Miller - Management Plan Subcommittee Update**

Participants on the subcommittee included Jono, Ed Flowers, Marlene Guffey, Allain Hale, Ernie Estevez, Belinda Perry, Dianne Davies, Jill DeBuono, and Jim Beever.

The subcommittee focused on Section 5.3, Specific Management Objectives and Actions. Natalie has edited much of the text portion of the plan. It was agreed that the management plan would be posted on the website homepage so Council members could easily find it. Members will have six weeks to report inaccuracies or insufficiencies. Alternative wording should be submitted to Natalie. At the next meeting, discussion would only occur on those areas of concern or difficulty. Maran recommended that all appendixes, figures and tables be appropriately labeled on the website.

Natalie will email the word document with the suggested changes to all the members. Comments should be sent to Natalie in an email by November 30<sup>th</sup>. Discussion will take place at the January meeting paying most attention to items in dispute.

#### **Future Agenda Items:**

Pine Level Mine (Mosaic), Effects of Mining in Hardee County (Allain Hale), Sarasota County Parks and Recreation Update, Flatford Swamp Water Use and MFL relationship to MRWI (SWFWMD), Renaming Venice Myakka Park (City of Venice), and Management Plan discussion

Jim Beever mentioned a full scale environmental impact statement being done on phosphate mining in this part of Florida, the Bone Valley Region, from upper Polk to Desoto and Hardee. All members should participate. Natalie will forward the email to the members.

Jono expressed interest in getting all the management entities to provide a 5-minute summary for their organization at the meetings. He also discussed renaming Venice Myakka Park due to the name being too similar to Myakka River State Park, especially since the park is not open for 8 months. Jono made a motion for the Chair to write to the City Council of Venice citing our actions from 2004 meeting minutes explain the problem and offer several name suggestions with geographical reference, honoring a person from the Venice area or a conservational group. Maran amended the suggestion and asked the Chair-elect to write the letter. It was decided that Jono will write it and Maran will sign it.

**Jono Miller made the Motion, Susan Hochuli seconded and the Motion carried.**

#### **Schedule Meeting Dates:**



January 14, 2011 – possible locations: SWFWMD, Fruitville Rd., Sarasota Library, Charlotte County Environment Center or North Port City Hall.

Elizabeth Wong was asked to bring up the issue of meeting length for Kathleen Weedon. She suggested two hour meetings with the business portion first. One issue with that idea was that members would not be able to vote or make motions on issues covered later on in the updates or presentation portion of the meeting. Maran mentioned the time certain business portion of the meeting that is already in place. The 11:00 am time certain business portion of the meeting will be included in the agenda. Maran also suggested written updates from the agencies instead of verbal to shorten the meeting time.

**Meeting Adjourned: 12:40 pm**