

MINUTES
LAKE COUNTY MINING COMMITTEE
February 22, 2012

The Lake County Mining Committee met on Wednesday, February 22, 2012 in the Commission Chambers on the second floor of the County Administration Building.

Members Present:

Nancy H. Fullerton
Kraig McLane
J. Michael O'Berry
Tracy Mouncey
Steve Adams
Douglas Dufresne
Commissioner Welton G. Cadwell

Members Absent:

Staff Present:

Brian T. Sheahan, AICP, Planning Manager, Planning and Community Design Division
Erin Hartigan, Assistant County Attorney
Shannon Treen, Senior Secretary, Board Support

Chairman Tracy Mouncey called the meeting to order at 9:41 a.m. and led the Pledge of Allegiance. She then introduced the newest member to the Mining Committee, Douglas Dufresne and the Commissioner Liaison, Commr. Cadwell.

AGENDA CHANGES

Brian T. Sheahan, Planning Manager, mentioned that Scott Catusus, the staff liaison, was unable to attend the meeting so he would be making that staff presentation. He pointed out that David Dewey, Director, and Dwight Jenkins, Hydrologist, with the St. Johns River Water Management District Maitland Service Center were present at the meeting. He then stated that the Department of Environmental Protection (DEP) presentation would be at the next meeting on March 8, 2012.

MINUTES

Ms. Mouncey noted that her last name had officially changed from Bryant to Mouncey.

Kraig McLane, committee member, stated that in the seventh paragraph on page 2, he wanted to change the reference about how they coordinate the presentations as opposed to giving them at today's meeting.

MOTION by Kraig McLane, SECONDED by Steve Adams to APPROVE the January 26, 2012 Lake County Mining Committee minutes, as amended.

FOR: McLane, Adams, Fullerton, O'Berry, Mouncey, Dufresne

ABSENT: None

AGAINST: None

NOT PRESENT: None

MOTION CARRIED: 7-0

PRESENTATION OF WATER MANAGEMENT DISTRICT ENVIRONMENTAL RESOURCE PERMITTING

Mr. Dewey gave a presentation discussing the St. Johns River Water Management District's (SJRWMD) Environmental Resource Permitting (ERP) program. He explained that all of the water management districts were given the authority to implement the ERP program and related that almost any type of construction or alteration of any works, stormwater management system or waters in the State would require a permit. He stated that there were many thresholds in the program and when a threshold was tripped, a permit was required. He added that the thresholds lowered if work was proposed in the wetlands or with surface waters. He noted that there were conditions for the issuance of permits to ensure that a project did not cause a water quantity or quality problem and that it would not adversely impact the functions that the wetlands and other surface waters provided to aquatic and wetland dependent species. He then discussed borrow pits and explained that a borrow pit was different than a mine because it did not have on-site material grading or sorting facilities and the water was typically retained on the site. He stated that if there was water discharge from the site, State water quality standards must be met. He added that one of the most important things to look for at borrow pits was whether any off-site discharge could cause turbidity during dewatering and they also wanted to ensure that adjacent properties were not adversely impacted from flooding. He pointed out that they had criteria specifying that the functions of the wetlands and surface water could not be adversely affected and they had a presumption that a 25 foot buffer from the wetland was assumed to be adequate. He then discussed the Wekiva River Hydrologic Basin and mentioned that before a permit was issued to do any type of work within the protection area, the applicant must provide written notification from the local government stating that the project was consistent with the local comp plan and was in compliance with the land development regulations. He stated that there were some potential changes to the ERP rules in that they wanted all of the water management districts to have the same consistencies, specifically with regards to thresholds and notice permits.

Nancy Fullerton, committee member, suggested that the SJRWMD consider adopting rules similar to the Wekiva River Basin for the Green Swamp Area of Critical State Concern since protecting that was their main goal.

PRESENTATION OF WATER MANAGEMENT DISTRICT CONSUMPTIVE USE PERMITTING

Mr. Jenkins gave a presentation discussing the SJRWMD Consumptive Use Permitting (CUP) program. He pointed out that the CUP program was focused strictly on the water use aspect associated with mining as opposed to the ERP program which was focused on the physical construction and operation of mines. He then discussed the district's mission and gave a brief history of the CUP program. He mentioned that consumptive use permitting deals with the withdrawal and/or diversion of water and that all consumptive uses of water were permitted except for those exempted by statute or district rule. He explained that the purpose of the program was to ensure that the use of the water was consistent with the objectives of the water management district and that the water use was not harmful to water resources in the area. He

related that per statute, the water management districts had exclusive authority to regulate the consumptive uses of water and that no other entity in the State had the authority to do so. He pointed out that there were four different types of permits and stated that the evaluation criteria was typically referred to as the three-prong test and specified that the use of water must be "reasonable-beneficial," the use cannot interfere with existing legal uses of water, and the use must be consistent with the public interest. He further elaborated on the evaluation criteria and then discussed the automatic reasons for denial of a permit. He related that consumptive use permits have finite permit durations in order to balance the interests of water users and the interests of the State. He added that the water management districts issue permits for the longest duration that is appropriate based on the application and the permitting criteria and noted that those durations range from a very short time to the longest being 20 years. He mentioned that if an applicant demonstrates that they can meet the permitting requirements, they will receive a 20 year duration permit. He pointed out that they require a compliance report to be completed after 10 years of having a 20 year permit, which shows that the applicant can continue to meet the permit requirements. He also stated that once the permit expires, the water management district reviews the water use to make sure that it was occurring in the most appropriate manner for the current conditions and could reallocate it if necessary. He related that most mines require consumptive use permits and that there were special requirements to mining-type uses of water. He then mentioned that there was a recent change to the consumptive use permitting rules and noted that the CUP streamlining rule was just completed and became effective in February 2012. He added that the changes were not mining specific, but the most significant change was that in almost all of the cases, only a letter was needed to be submitted if there was a request to modify an existing permit.

Commr. Cadwell asked whether the SJRWMD had ever denied a permit based solely on the criteria that the use was not consistent with the public interest. Mr. Jenkins replied that he could not think of a case where it was denied based only on that criteria but he explained that permits typically were not denied because either the applicant modified the permit to become compliant or they withdrew the permit altogether.

J. Michael O'Berry, committee member, asked if Mr. Jenkins agreed that mining represented a unique use of water as compared to other water uses in that not all of the water pumped was actually consumed by the operation and that substantial quantities were actually being returned to the aquifer. Mr. Jenkins stated that he agreed and noted that dredge mining operations were recirculative in nature because the amount of water lost off of the mining site was very low.

Mr. O'Berry then mentioned that there have been technology improvements in the last 10 to 15 years that has helped to reduce the additional amount of water used to augment mining systems and the district has been moving the mining operators towards using less ground water in their operations. Mr. Jenkins explained that mines have been trying to run their businesses as efficiently as possible to reduce costs by making their water uses more efficient and to reduce their monitoring burdens by reducing the potential for environmental harm.

Steve Adams, committee member, asked if they looked at pre-mining versus post-mining recharge as part of their evaluation criteria. Mr. Jenkins responded that they did look at that, as well as a variety of issues and stated that with the aquifer, recharge was a large scale regional issue, so the footprint of any given mine would generally have minimal to zero impact from a recharge standpoint.

Mr. Adams then questioned whether they looked at the overall cumulative impact of a particular mine in addition to other mines already in the area. Mr. Jenkins stated that they did look at the

cumulative impacts to determine whether or not the new mine's proposed operation withdrawal would cause harm to the entire area.

Ms. Mouncey asked what approach was taken if the compliance reports determined that there were impacts to the wetlands. Mr. Jenkins answered that with the conditions placed on all of the permits, the water management district had the authority to modify or revoke the permit to address any impacts. He elaborated that they would work with the applicant to either make a change in the operation or to mitigate the impacts.

PRESENTATION OF THE LAKE COUNTY MINING REGULATIONS

Mr. Sheahan stated that the County had many policies and specific mining regulations that affected the Green Swamp and then explained the open space requirements in the Green Swamp. He then discussed the steps involved with applying for a mining site plan and noted that it was a conditional process that required a public notice and hearing. Such cases are brought before the Zoning Board and the Board of County Commissioners for approval. He related that County staff would first meet with the applicant to determine the scope of the mine, the access to the mine, and the status of the required permits from the DEP and the SJRWMD. He added that the mining site plan goes to the development review staff (DRS) for review prior to the hearings to make sure that all of the comprehensive plan requirements were met. He pointed out that the County had the ability to impose additional conditions that were reasonably necessary. He stated that once the Zoning Board and the Board of County Commissioners approved the mining site plan, the applicant must submit an operating permit and must copy the County on the monitoring reports that were submitted to the SJRWMD. He noted that the County relied heavily on the expertise of the SJRWMD and the DEP with regards to water quality and quantity and that the County's focus was mainly on the upland and the eventual restoration, as well as the impacts to adjoining properties.

Mr. O'Berry asked what kind of impact the open space requirements had on the expansion of existing mines as opposed to new mines. Mr. Sheahan responded that the requirements would apply equally, so depending on the specific site, it could limit the ability to further expand the mine.

Mr. O'Berry then asked if the open space requirement percentages were irrespective of vegetative communities and soil types. Mr. Sheahan stated that they steered the applicants to preserve the more environmentally sensitive upland.

Mr. O'Berry also asked whether the County requirements were more stringent than the State criteria. Mr. Sheahan answered "Yes."

Ms. Mouncey asked whether the open space requirement was a Lake County rule or a Green Swamp Area of Critical State Concern rule. Mr. Sheahan responded that it was difficult to separate the two because they operated under the principles of guiding development since it is an area of critical state concern and as such they were mandated by statute to include specific policies to ensure the protection of that resource.

Ms. Mouncey then asked if there were open space requirements for mining in areas of Lake County that was not in the Green Swamp. Mr. Sheahan replied that there were open space requirements in all land use categories, but the Green Swamp had some of the highest.

Ms. Fullerton asked Mr. O'Berry to explain how a mining site was chosen. Mr. O'Berry

explained that the best quality sand would first be located on the site and that process would determine areas up front that would meet the open space requirements. He added that there were other challenges as well if environmental features were impacted, such as how much mitigation would be required and the cost associated. He stated that once that review process was completed, they would then determine whether or not extracting the resource on that site was economically feasible.

Ms. Fullerton also asked if they chose sites that had the best quality sand but was also one of the most endangered environmental areas. Mr. O'Berry stated that it depended on what was considered as the best environmental land because it varied throughout the State. He noted that they would have to determine whether it was economically viable given all of the restrictions, the mitigation and the compensation required because sometimes that amount can be in the tens of millions of dollars.

Ms. Fullerton suggested that the choice of the open space of the valuable environmental land be the number one requirement since the committee's mission was to determine whether additional protections were necessary in allowing additional mining or expansion of mining. Mr. Sheahan commented that they had a policy that covered that, but they could revise it. He mentioned that he would bring that policy to the committee at the next meeting.

Ms. Mouncey requested having other federal agencies at a future meeting to discuss their regulations regarding endangered species on the site to better help the committee determine whether additional restrictions would need to be placed on areas in the Green Swamp. Mr. Sheahan stated that he would try to contact the U.S. Fish and Wildlife and the Fish and Wildlife Conservation Commission.

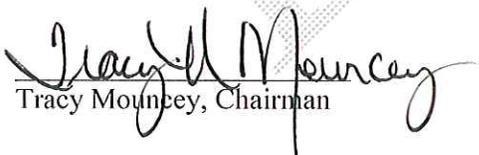
Commr. Cadwell commented that he would not be able to attend the next meeting on March 8, 2012 because he would be in Washington, D.C.

Ms. Fullerton mentioned that she had put together a packet of letters from the Alliance to Protect Water Resources regarding their viewpoints starting from 2000 and she handed those out to each committee member.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:20 a.m.

Respectfully submitted,


Tracy Mouncey, Chairman

