

Technical Advisory Group

3/21/08 Meeting Minutes

9AM to 11:45AM

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ATTENDEES: Marty Armstrong (arrived 10:30), Tom Crisman, Derek Doughty, Scott Emery, Rhonda Evans (via phone), Eric Fehrmann, Ann Hodgson (arrived 10:00), Alberto Martinez (arrived 11:00), Jason Mickel, Tim Neldner, Wayne Richardson, Tom Ries

EPC ATTENDEES: Leslie Campbell, Chris Cooley, Barbara Mott, Pete Owens, Debbie Sinko, Bob Stetler, Kim Tapley, Andy Zodrow

HANDOUTS: Agenda
Copies of past meeting minutes
Reasonable Use Draft
TAG and the Sunshine Law document

Bob Stetler announced:

EPC Board accepted the Process Audit and it has been posted on the TAG website.

The Draft Reasonable Use Standard has been posted.

Staff is working on Applicants Handbook and BOR. Staff will post the Basis of Review drafts by date starting early next week. April 3rd at 6pm will be a night meeting to finish the Basis of Review & Reasonable Use discussion. April 18th will cover the Mitigation topic. The May 1st evening meeting will be canceled. The May 16th meeting will cover the Classification topic. The recommendations to improve the Memorandum of Understanding (MOU) between EPC & SWFWMD have been posted. He encouraged TAG to post comments regarding miscellaneous issues that are related to the MOU.

TAG agreed that the Process Committee topics would be covered within today's meeting and the April 3 meeting.

Minutes from previous meetings were discussed. TAG asked for a revision to the 1/18/08 Process sub-committee minutes. The 2nd sentence from the 5th paragraph will be deleted and the 2nd & 3rd sentence of the 4th paragraph of the 1/18/08 TAG meeting minutes will be copied to the 5th paragraph of the sub-committee minutes. "Does" will be replaced with "should" in the 7th paragraph. The minutes were approved with the noted changes. The three Process sub-committee members present approved the minutes unanimously.

The 1/18/08 full TAG minutes were approved unanimously.

An addition of "and critical wildlife habitats" was added to the last sentence of the 2nd paragraph of page 3 of the 2/15/08 minutes. The minutes were approved unanimously with the noted changes.

An addition of "at this time" was added to the last sentence of the 4th paragraph of the 2/28/08 minutes. The minutes were approved unanimously with the noted changes.

Scott Emery led the discussion of the Draft of the Reasonable Use Standard. TAG commented that 1st sentence does not define Reasonable Use. They agreed to allow Andy Zodrow to work on wording. Also the 1st paragraph needs to be modified to clarify that meeting reasonable use does not grant wetland impact authorization. An approved mitigation plan is also required.

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Andy Zodrow said the Reasonable Use draft was based on the Hybrid requirement to develop guidelines for determining reasonable use. Staff was consulted on factors that have been used to determine reasonable use in the last 23 years. He said the draft is an attempt to define the entire reasonable use phrase from Ch. 1-11.07.

TAG commented that the phrase “highest and best use” is not defined and that a definition would be helpful. EPC staff commented that the phrase is used in the SWFWMD Basis of Review and has been tested through rule making and that the phrase is related to the highest economic return.

TAG questioned the statement in paragraph 1 that every property is unique. EPC staff commented that the reason for making that statement is so that every proposal to impact wetlands is considered on its own merits and not compared to a similar piece of property that had wetland impacts approved. TAG commented that comparisons are relevant for understanding how to justify impacts. TAG suggested that the every property is unique statement may be more appropriate in another portion of the Basis of Review.

Considering the introductory sentence to the reasonable use factors, TAG suggested that “may be considered” should be changed to “shall be considered” and that the “however” portion of the sentence be moved to a summary statement at the end of the reasonable use section with further clarification.

TAG members stated that they may not submit their site designs with the least wetland impact anticipating EPC staff would require less wetland impacts no matter how good the proposal. They would submit the best design during negotiations on reducing wetland impacts. Several TAG members indicated that is not productive. Bob Stetler indicated that EPC has not taken that approach in the meetings where he has been involved.

TAG suggested that the current pre-application process should be improved. Alberto Martinez explained the SWFWMD pre-application process. Several TAG members indicated that their experience with pre-applications and EPC has not been beneficial to the process when they apply. All agreed that the pre-application process is advantageous to the overall process and EPC should strive to improve the pre-application process.

Concerning factor b) Derek Doughty commented that he didn’t understand how economics would work if a property was marginally profitable. How much profit was needed before it was deemed reasonable use? Andy Zodrow said that this type of economic question would be addressed under factors f) or k). Andy Zodrow said that the loss of economic value described in factor b) does not address how much profit is reasonable. Andy Zodrow said that he is open to any suggestions on proposed rule language for the Reasonable Use Standard.

TAG suggested that a factor that relates to future land use mapping should be added to the factors. No substantial changes were voiced for factor a).

TAG and EPC staff discussed the idea of making some of the factors for reasonable use an automatic approval. EPC staff said the apparent automatic factors such as factor b) may have an exception if the property owner has created a self imposed hardship.

EPC staff explained that factor c) considered phased projects and out parcels. No substantial changes were voiced for factor c) or d).

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EPC staff explained that factor e) considers those uplands that are isolated and small in relation to the entire upland portion of the property and require large wetland impacts to access. No substantial changes were voiced for factor e).

TAG commented that “redesign” should be changed to “design and/or redesign” within factor f). EPC staff stated that consultants have brought in several progressions of the conceptual plans and project designs to demonstrate minimization of wetland impacts.

Scott Emery called an end to the discussion of reasonable use at 11:40. He asked the TAG to look at the remaining factors and prepare for discussion of those at the next meeting in addition to any other factors that they may want to suggest and any comments regarding the definition of land.

Ann Hodgson encouraged the TAG to submit any suggestions for the mitigation sub-committee consideration as they are preparing their paper for presentation on 4/18/08. Any comments will be submitted to Kim Tapley of EPC for posting on the website.

Bob Stetler concluded the meeting by stating that EPC staff will be consolidating its comments regarding the Chuck Courtney position paper and posting them on the website. He stated that the current paper is not in a pro and con format. He suggested that the committee give reasons for positions taken and discuss pros & cons of the issues. He directed the TAG to review the Agriculture position paper that was produced by the Agriculture sub-committee. He encouraged that approach for all of the position papers. He stressed the importance of the TAG producing position papers. The remaining schedule was recapped with the final wrap-up meeting in June anticipating presentation of the TAG white papers to the stakeholders group.

Meeting adjourned.