

**Myakka River Management Coordinating Council**  
**Virtual Meeting on Microsoft Teams**  
**March 25, 2022**  
**9:30 A. M. – 12:30 P.M.**

**MINUTES**

The meeting began at 9:30 A. M. with Jono Miller presiding. This meeting was advertised in the Herald Tribune on Friday, March 11, 2021.

**MEMBERS IN ATTENDANCE**

Jono Miller – Sierra Club	Howard Berna – Sarasota County
Steve Giguere- FDEP/MRSP	Chuck Johnston – O Bar O Ranch
Bob Clark-Venice Audubon	Megan Cousar-FFS
Jonathon Bennett-FDOT	Barbara Lockhart-NP FOWL
Victor Dobrin-Homeowner	Alana Todd-TBRPC
Ryan Pieper-Charlotte County	Juliette Jones-FWMS
Elizabeth Wong-City of North Port	Rob Wright-Sarasota Audubon
Steven Schaefer-Friends of Myakka River	Nicole Iadevaia-CHNEP
Becky Ayech-ECOSWF	Glenn Compton-Manasota 88
Greg Blanchard-Manatee County	Mike Chouinard-Homeowner
Verne Hall-City of Sarasota	Amelia Williams-SWFRPC
Hugh Havlik-GCHSC	Lou Kovach-Homeowner
Lee Amos-CFGC	Corky Pezzati-LWV

**INTERESTED PARTIES**

Chris Oliver – FDEP/FPS	Nadine Hallenbeck – FDEP/FPS
Linda Dickson-Homeowner	Ashley Hollifield - SWFWMD
Allison Callis-FDEP/MRSP	Diana Donaghy-SC PRNR
Jeremy Rogus-City of North Port	Brandon Moody-Charlotte County
Audie Bock-Soil & Water Conservation	Scott Moranda- SC PRNR
Michelle Keirse- FDEP/MRSP	Lisann Morris-SWFWMD
Sammy Smith-SWFWMD	Geoffrey Lokuta-FWC IPM
Jon Meyer- FDEP/MRSP	Michael Hancock - SWFWMD
Stephen Suau – Progressive Water Resources	Tara Paige – SWFWMD
Ross Morton-SWFWMD	Wayne Douchkoff - ecotour guide
Sarah Schulz -SC PRNR	

- **Call to Order and Role Call were made.**
- **Public Comments:** Linda Dickson from the Hidden River subdivision asked what the feasibility is of forming a committee or partnership to study the options for protecting the integrity of the Hidden River Dike to ensure the protection of the Wild and Scenic Myakka River.
- **Amendments to the agenda:** change that toxins and minerals are no longer detectable instead of that they disappear. Becky Ayech motioned to approve the amended minutes. Barbara Lockhart seconded.

### **Flatford Swamp Recharge Project-Sammy Smith**

Sammy is a staff hydrogeologist with SWFWMD (WMD) and technical lead on the Flatford Swamp Aquifer Recharge Project. The District owns approximately 2357 acres that are commonly known as Flatford Swamp and is in the upper Myakka River watershed in eastern Manatee County. The test well project area is near Taylor Road.

This acreage is directly in the Southern Water Use Caution Area (SWUCA) of the District and directly to the east of the most impacted area (MIA).

Flatford swamp has been impacted by excess water flowing from various upstream tributaries that have seriously affected the swamp's hydrology for several years. One factor is excess quantities of water infiltrating during the dry season, which has altered the normal river flood plain hydroperiod.

The most obvious consequence observed in relation to this is abnormal tree mortality. Reports of this began in the 1980s.

One component of the District's overall approach to Flatford Swamp includes various FARMS projects to the west to utilize some of the excess surface water rather than groundwater for irrigation purposes and/or bed prep. These kinds of projects are still ongoing, and the upper Myakka River watershed is a target area for them.

The WMD estimates that despite these projects and ongoing efforts on an average annual basis, there is still approximately 10,000,000 gallons per day of excess water that impacts this area.

There is some interesting geology and geomorphology in this area. Subsurface geology is something to take into consideration when talking about Flatford and excess quantities of water.

In this area, about 5 to 8 feet below the land surface, there is a distinctive hardpan surface, which in this region, consists of either compacted, organic sediments or clay and that has got a notable impact on water absorption and dispersion into the subsurface.

One example to the contrary of that is in some wetlands, there is deep, sandy, unconsolidated sediments that do allow for rapid and continuous infiltration or percolation of the water down into the aquifer.

In the second figure, which is similar to Flatford, there is a hardpan consolidated layer beneath the land surface and that causes the water to perch and fill up, like a bowl at the bottom of a topographic hill. It does not facilitate that same rapid recharge as you'd see with sandy unconsolidated sediments.

Despite the geologic conditions or specific land use, the overall goal at Flatford is to figure out the most effective and beneficial way to utilize some of these excess quantities of water flowing into the swamp.

Trending toward the historic hydroperiod is important but one of the ongoing issues in this SWUCA is also the significant reduction of groundwater levels in the Upper Floridan Aquifer (UFA) which have occurred as the result of groundwater withdrawals.

By diverting some of this excess water from Flatford for injection, the UFA can potentially be supplemented and contribute to increasing those groundwater levels.

This has the potential to aid in meeting the Saltwater Intrusion Minimum Aquifer Level (SWIMAL)

which has been established for the MIA and it will potentially aid in the mitigation of future saltwater intrusion in the area.

These are just some of the additional potential benefits that accompany what they do and will be a trend back toward the swamps normal historic hydroperiod.

Aquifer recharge, after exploring a multitude of other potential options, is what topped the list for them. For each iteration of the integrated modeling, they ran multiple water budget scenarios and those compare the existing, the historic, and future land use in the area.

The most recent update, which was in 2017, had a simulation period that extended from May 1994 through December 2014.

The extended model results were then used to update previously developed time series of average monthly excess flows into the swamp.

The most recent iteration in 2017 included 3 different scenarios. They looked at different pumping rates at 3 different tributaries to determine what the optimal scenario would be to intercept Flatford Swamp excess flows for recharge into the upper Floridan.

The quantities shown account for all 3 tributaries in the original model. It is the excess flows from all 3 of those tributaries combined.

In the second of the 3 modeling scenarios, ran using the historic and existing conditions, they shut off the pumping from the Ogleby and Maple Creeks. The Myakka River Pumping was left on but reduced to a rate of 2 million gallons per day (MGD) or 3.09 CFS.

The current diversion plan, which is scenario 3, is where they get the pumping rate of 2 MGD injection. This model did take into consideration the potential for over diversion on the Myakka River and how that could potentially be affected by significant decreases in discharges from the Wingate Mine to the Myakka tributary since 2007.

This is where they derived the starting point for diversion. They have their test well and related infrastructure but the system and the well have a capacity of 2 MGD and they have got an operational testing plan.

It is important to keep in mind that the operational testing phase is specifically designed to allow for the opportunity to start with these model estimates, these rates of the 2 MGD and to see when and where to make adjustments to injection rates or treatment methods and dosing. The goal throughout the operational testing phase is to allow them to zero in on what the sweet spot is going to be for these different elements.

They want to contribute to trending the swamp back towards that historic hydroperiod and to help the aquifer.

Their original plan at Flatford was to explore the concept of inground filtration and use a zone of discharge testing permit. In that plan, they had minimal treatment consisting of sodium bisulfite, which is a food grade oxygen scavenger whose primary function is to remove dissolved oxygen and to help mitigate mobilization of arsenic in the aquifer.

They have now changed their treatment plan.

Most of the infrastructure was already in place when in May of 2021 permitting changes came from FDEP. They did not want them to continue with the zone discharge concept. Instead they are requiring that source water be treated to primary standards at the wellhead.

A comprehensive study has been performed by Hazen and Sawyer on the Peace River. They have similar source water and water quality to Flatford, and their results and conclusions lead them to implement chloramines as their chosen method of treatment. This aided SWFWMD to pursue chloramination with SBS. The former being for disinfection and the latter being for that removal of dissolved oxygen and arsenic mitigation. This is the new proposed method of treatment.

One of the reasons chloramination is favorable ties back to the source water from the Myakka which does have notable total organic carbon content. Chloramination versus just straight chlorination helps reduce the potential for the development of disinfection byproducts.

After deciding on this new course of action, they took their plan and newly proposed treatment train along with all the costs and changes to the infrastructure back to their governing board in December 2021. They were able to get that approved so Flatford is continuing to move forward.

The current project status, in terms of construction, which includes ongoing implementation of the new treatment train and the associated alteration to the infrastructure is anticipated to be completed by June 2022.

Their application for the renewal of the operational testing permit that was also submitted in December 2021 is currently awaiting a response from DEP.

Our current outlook on the commencement of operational testing is late summer 2022 and that is barring anything unforeseen.

There is a Suwannee limestone monitoring well, two injection zone monitoring wells and the test well near Taylor Road. That is the compliance well.

There have been some changes to their website. There are updates to their project schedule and monthly project updates on Flatford as well as future projections.

While these updates may not include a great deal of discussion or detail right now, during the completion of construction they will become more comprehensive and frequent when they begin operational testing. This will include project progress, pumping rates and quantities and updates involving permitting.

They will do their best to keep the permitting information up to date on their website but, that is not a required part of the FDEP regulatory process. Sammy recommends contacting their UIC permitting division directly for the most up-to-date information.

The potential future build out of the project is dependent upon the results of the operational testing. If the results are favorable, they will go back to their board and ask for permission to go operational and apply for an operational permit. As far as the potential for future development, they will probably look to the West side of the swamp near Coker Ogleby Creek which is a larger contributor than Myakka in terms of excess flows. Any additional well will require its own construction and testing permits.

There could be 3 to 4 wells total at build out based on the first test well, but that is entirely dependent on the results of the operational testing and the future determinations made by their governing board.

Steven Schaefer asked about the process saying SWFWMD issues a permit for somebody to drill a well and use the water. They use it for whatever they are going to use it for, then put arsenic, various other chemicals and dissolved organics or nutrients in the water. When the water comes back, it must be treated for the chemicals that are in it and more chemicals are added to kill the potential bacteria and then it has to be put back in the ground. Would not it be easier to limit the amount of water that was pumped out of the ground? That is where the water is coming from, that is where the problem started, and it is the people that are pumping the water that should be the ones to pay for all the things that have to be done to the water in order to put it back in the ground safely.

Ross Morton started with some information about his background. He is originally a wetland scientist and has a Master's in Systems Ecology from the University of Florida. Back in the 90s, he was on the original request for the proposal to start evaluating Flatford Swamp in order to find out what was happening and come up with various solutions. That process involved a lot of public meetings.

They evaluated every farming operation to the point where he and another engineer went out to every site and did soil samples. The efficiency rate for those farmers was 85% for some irrigation, so all the users were within their permitted range. This was the beginning of the FARMS program. They developed approaches to work with the farmers to start capturing any excess water beyond what they normally could do. They realized over time that wasn't going to be enough, so the District started evaluating other options. They did look at that and did try to do everything to limit the amount of discharge coming from their sites.

It is a unique geologic area, especially around the swamp area. At the head of the swamp, it is probably at an elevation of 20 or 30 feet and then it drops very quickly down to the flat part of the swamp. Water migrates down there and that is the reason why the farming community set up there because it is very easy to do row crop. They also checked to see if they could regulate it from a surface water aspect, but AG is generally exempt from making surface alterations associated with their farming operation. Based on public input, they took the cooperative approach and started enhancing their AG SWIM program. This works with the farmers to develop surface water holding areas and capture even more excess water and try to prevent sediment from going into the swamp.

Becky Ayech reiterated that the irrigation efficiency was 85%.

Ross replied that it depends on the exact crop. Row crops are in the 70s while citrus is 85%.

Becky Ayech asked about irrigation being different from bed prep.

Ross replied that it is part of the overall irrigation quantity. It is a subset of the overall amount that they are allocated.

Becky asked about their efficiency in bed prep.

Ross replied that his understanding of how the water use permit is allocated is it is all one quantity. If it is citrus, they get 13 to 15 inches for the entire year so in that bed prep quantity is included.

Becky added that she lives around all these farms and she has spoken to the farmers for many years. They like that hardpan to not be too far under the surface because they fill up the land to raise the water table to surface. They quit doing flood irrigation for the crops after they are established. There is a potato farmer that said, stop raising the water from the hard pan up. There is no point in filling it 5 feet up, do it from the top down and they have successfully done that. He has made presentations about it. It is not the water that is coming into the swamp after the beds are established. It is the water that is coming into the swamp

from them doing bed prep as they try to fill up the land on their property. Becky asked what the District has done to try to improve the way that bed prep is done, and have they followed up on the suggestion of the potato farmer to work with the folks to go from the top down instead of raising the water table up.

Ross replied that the District did do a lot concerning the bed prep. They got a lot of pushback when they were trying to go above and beyond the regulatory requirements through the FARMS program because of the farmer's inability sometimes to use irrigation water through their drip systems or microjet. Faulkner was a great example. They did a complete tailwater recovery system that was specifically designed to capture all their bed prep and to have that reuse go back in. It is not a perfect process.

It is not just irrigation water. They plumb the system in which to get some of the high water so what is going to happen in the dry season, when there is 25 inches? Even though the farmer is doing a nice job in capturing their bed prep quantities or not even using groundwater when they are getting a rain event, there is still a lot of runoff just based on high water tables and how farming itself occurs. They did spend a lot of effort and the FARMS program was specifically designed to capture that bed prep quantity. That is above and beyond what is normally required but it is the entire quantity when they allocate. It is included in the overall irrigation that they are working with farmers to try to improve. They try to work with the farmers to try to come up with methods that fit their system and prevent that excess runoff from going off site.

Becky added that despite SWFWMD doing outreach programs, there are still in agricultural operations that are not willing to pursue that. Going to Steven's point, this money is money that the taxpayers are paying the farmers to do the different irrigation. While it is known this is happening in Flatford Swamp, all the other areas where these types of agricultural activities are having impacts on water systems that are similar to that of Flatford Swamp have not been identified.

Lisann Morris clarified that the mitigation of arsenic and the disinfection is part of the Underground Injection Control (UIC) permit. They must do that.

Jono asked what is meant by excess water? What is meant by over diversion and quantifying what is entering the swamp and adjusting those quantities. Is the District measuring at Myakka City Bridge or are they measuring what is leaving the swamp and, more importantly, for the Wild and Scenic River are they measuring what is entering Sarasota County? The Wild and Scenic River starts in Sarasota County and it is at the mercy of everything that happens upstream. It is worth talking about what inputs are going into the swamp, but will this attempt to restore the natural hydrologic patterns entering Sarasota County.

Lisann replied that in their modeling efforts, they indicated excess water. They went back to the 1950s and looked at the historic land use surrounding Flatford Swamp before agricultural operations and some of the changes started to happen. That was what they wanted to get back to, so they took the existing conditions, which includes the existing land use, minus the historic land use conditions and set that as a target of excess water.

Jono summarized saying the difference between water that is entering now versus the 1950s.

Lisann added that the Myakka comes in and not too much further south, Long Creek comes in. They looked at Long Creek excess water and thought they could over divert from that Myakka point to make up for the Long Creek excess water that they are not getting.

Jono summarized that there is one place where too much water is coming in and all the inputs cannot be managed equally. It is not cost effective to have every little rivulet managed so in some cases, you might want to take more water than would have been historic in 1950 in order to sort of balance things out.

Jono asked when attempting to restore the historic timing quantity and quality of flows in the Myakka River is the District looking at Crane Park in Myakka City and the water entering Sarasota County as well as the quantities of water entering the swamp upstream of Crane Park.

Lisann replied that when they did the initial full model, it went from the Sarasota gauge up to the top of the Myakka River. The model encompasses that whole thing. She cannot say exactly what the excess water was, but the majority of it was coming into Flatford and there was some but not a lot, that showed up in the lower.

Jono asked when do they plan to recalibrate the model? At the dike between Vanderipe Slough and Upper Lake There is a deep channel that may have been worn by alligators so at higher flow periods There is a bunch of water leaving Upper Myakka Lake and entering Vanderipe. The weir at Upper Myakka Lake has just been removed. There needs to be a better handle on the extent of the functioning. How did the remaining dikes and Tatum Sawgrass function at various stages? At the gauge in Myakka River State Park, there has been several significant hydrologic changes that could be affecting flows in the park and it seems like the District should be integrating those changes into their modeling.

Lisann replied that in the fiscal year 2023 budget, they have requested an update on the Upper Myakka water budget model. There are two different models though, a water budget model and a hydrologic model.

Jono asked if they are both based on the flows upstream of the gauge in the park.

Lisann replied they are but they do different things.

Jono added that the concern for the Wild and Scenic River is in the water quality. The Council is interested in the overall quantity but also specifically interested in the timing of those flows, when they occur in the hydroperiod and how. Is there any agreement as to whether the hydroperiod, the length of time the soils are inundated, is more determinant in terms of the tree's survival versus the depth to which the water is not inundated? If you were trying to restore the original swamp trees, is it more important to reduce the hydroperiod, the length of time that the water standing on the land surface, or more important to reduce the depth of the water when the water is standing there?

Ross replied that there have been studies on looking at phenotypic expressions based on the environment. If a tree grows up in a wet area, over time it has morphological adaptations to be better adapted for wet conditions. They went back and started looking at all the trees within that swamp system. Nyssa was one of the ones that fell and there was a lot of pop ash up near the front. There are a couple of varieties of Nyssa, and it is difficult to differentiate between them. One is more of a minimal floodplain. They looked at historic hydroperiods and took the middle. There is a lot of evidence to suggest that that system was only wet about 3 months out of the year. Going back, there were pictures in the 40s showing people running cattle in the lower portion of it. The holding capacity of the swamp has increased overtime because what that hydroperiod does, even though there is a groundwater input. There is a surface water drainage input that is much more efficient draining it into that swamp. By elongating that whole area, organics have accumulated within there and so it is changed the redox potential. It is better to work on the hydroperiod because there is going to be a long-term type event for that system to revegetate itself. Some of the more native plants are starting to come back in. There is a lot of microtopography in there, it is not a bowl shape. Based on that, it is all about elevation and so the flashiness is kind of limited based on rain events. That is going to be very difficult for the District to do anything with that. Based on this approach they can allow it to dry out a little more. At some point when there is a dry season, allow those organics to settle out and there is native recruitment over time. Hydroperiod is important in wanting to promote native reestablishment of that area.

Lee Amos asked about the schedule of pumping. It looks like it occurs in in the dry season as well as the wet season. Is this consistent throughout the year or is it different in different seasons? Is this schedule just for this test well and would there be a different schedule for when it becomes operational?

Sammy replied that the target capacity for the test well and accompanying infrastructure is a max of 2, MGD. That does not necessarily mean that it is going to be at a constant and steady rate of 2 MGD. That means that is the max quantity that that system is capable of. They will be adjusting this based on seasonality, availability and where they see that the operational testing shows the need for adjusting that quantity. It is the excess flows, particularly in the dry season, that are having a bigger impact on the normal historic hydro period of the swamp. They want to home in on what is going to be the sweet spot for the dry season. There are such excess quantities in the wet season that with this singular test well you couldn't touch them because of all the amalgamation of water from the different tributaries that is well above and beyond 2 MGD.

Lisann added that each well will have a different schedule dependent on the tributary. The Coker and Ogleby will have a different schedule than the Myakka based on what their modeling estimates for excess water are.

Lee asked what metrics are evaluated to inform the adjustments? What are they measuring to determine how to adjust that schedule?

Sammy replied that they want to see the aquifers response and performance testing. They have done a vegetative study over the last two years and they are getting background on what the existing vegetation is out there so they have a good gauge of how it may begin to change over time in response to the injection. They want to know how it is impacting the aquifer, but also what impacts it is having on the swamp and the vegetation. The tree mortality there was some of the first indications that they got back in the 1980s that told them the excess water flowing in was an issue. Those are some of the things that they will be looking at going through operational testing over the course of the next year or so.

Lisann added that when they are diverting 2 MGD they will monitor the level in the Myakka.

Jono asked where in the Myakka will they be measuring that.

Lisann replied that it is at the test well near Taylor Road.

Jono mentioned that there is so many variables. The test well could be pulling 2 MGD out but that might not be visible at Crane Park, there may be more water. There are so many other tributaries contributing to that that the effect of the 2 MGD at Taylor Road may be masked or hard to detect by the time you get down to the bottom of the swamp.

Jono also mentioned that in the past, changes in the strategy related to Flatford Swamp have not been fully communicated to the Council. The Council originally came to understand that the entire goal was to restore the hydroperiods in the swamp and over time there has been a blending of a new importance on dealing with the aquifer management. Jono emphasized the Council should be kept up to speed on these decisions. The Council may want to support an update to the water budget or the hydrologic model.

Becky reiterated a point that she made at the last meeting regarding tree mortality. She provided documents to the Council at the last meeting quoting from the tree mortality assessment of the upper Myakka River watershed. She highlighted that Professor Brooks stated the critical factors for flood related (tree) mortality is the duration of the flooding during the growing season, the flood tolerance of the species and the number of years the flooding stress occurs.



## **Motion**

Becky Ayech motioned that The Myakka River Management Coordinating Council send a letter to the Southwest Florida Water Management District's Governing Board Chair and all its members and a copy to the Executive Director asking them to follow the recommendations provided by the *Tree Mortality Assessment of the Upper Myakka River Watershed. June 1998*. A report commissioned by the Southwest Florida Water Management District.

...it is recommended that the District adopt the following two management goals for the Upper Myakka River watershed:

1. Prevent further tree die-off, and reverse tree decline, in the affected areas; and
2. Reduce the volume of water in the upper Myakka River system.

It is further recommended that the District address these goals through a four-tiered response including:

- Implement reasonable regulatory controls.

A decrease in surface and/or groundwater contributions to streamflow and/or baseflow could be achieved through numerous means including:

- Decreasing the pumping and use of groundwater for irrigation.

In addition to the resource management actions discussed above, regulatory measures should also be considered to meet the recommended basin management goals. Possible regulatory actions are:

- Designation of the upper Myakka River basin as a *Volume Sensitive* basin, followed by formal rule making; and
- Amendment of existing water use permits to require greater water conservation and irrigation efficiencies, or increased surface water storage volumes.

These recommendations are in lieu of continuing with the proposed deep well injection of excess surface waters caused from lateral seepage that continue today.

Furthermore, the Council recommends the District abandon the proposition that there is excess water in the rainy season that can be captured. The volume of rainfall in the rainy season is one of the tools used by the Myakka River State Park to manage the River system. Reduction in flows could severely reduce management of exotic species and reduce the footprint of the River.

Lee asked for clarification on the excess flows in the rainy season. What does that mean and/or how was that calculated?

Ross replied that when it comes to volumetrics, the difficulty they had when looking at that issue back in the 90s, is most of the agricultural activities are exempt from the regulatory rules. At that point, it wasn't necessarily a benefit to try to push volumetrics. They did evaluate it, which is why they ended up working with all the different farmers to try to do tailwater recovery plans.

Lisann replied that it was similar to the way they did the dry season flows, existing minus historic. The soil storage was full from that dry season area and you get excess flows during the wet season. With the less prevalent vegetation, as you had in the 50s, you saw where the evapotranspiration in the water budget had decreased because you'll see the plastic and some of the other stuff that goes on with the agriculture out there. The vegetation that used to release that water to the atmosphere has decreased. It decreases in that and increases in stream flow in both the wet and dry season.

Steven Schaefer seconded. Jonathon Bennett abstained. Lou Kovach and Lee Amos voted "No". Motion passed with 16 "Yes".

### **Jono Miller-Chairman's Report**

Jono gave an update on the motion from January's meeting, fossiling impacts, Snook Haven Park improvement plans and issues related to a shoreline protection permit for the Diocese of Venice.

Jono sent out the requested letter from the motion in January's meeting.

He noted that it is illegal to collect fossils without a permit from the Florida Museum of Natural History, but there is an exception for shark's teeth. You cannot collect from inside a state park but, unfortunately, it does not mention anything about fossiling in Wild and Scenic Rivers. It constitutes dredging and filling if you are doing anything other than bending down and just picking something up. Jono showed some slides demonstrating the impacts from fossiling occurring in the river.

Sarasota County is in the process of rethinking Snook Haven. They are coming up with a conceptual plan. The proposed changes are to convert on of the existing cabins into a welcome center to accommodate a gift shop, restroom and kayak/canoe rental space. This includes a small building addition to provide for storage for kayak/canoe equipment, such as life vests, paddles, etc. To remove three of the five existing cabins and replace with a new nature trail along the Myakka River. The existing restroom building with ADA accessible parking spaces will remain. Provide an ADA access path from the existing restroom building to the proposed walk-up ramp. The existing River House at the north end of the site will remain and become a future Interpretive Center. The outdoor concrete gathering space located at the existing bandshell will remain. The existing bandshell will be removed and replaced with an improved bandshell at the same location. A small storage structure will be added behind the new bandshell for storage of equipment utilized for musical events. To remove the existing riverfront restaurant and provide a new, elevated 1,300 square foot concession building with a walk-up ramp along with an open, covered seating pavilion consisting of approximately 1,200 square feet (60-80 seats). Both buildings will be elevated one-foot above the 100-year/24-hour community flood zone elevation. To provide an elevated deck extending from the covered seating pavilion to the bank of the river. Questions and comments can be submitted to [PRNRmeetings@scgov.net](mailto:PRNRmeetings@scgov.net)

Jono thinks that instead of extending a deck all the way to the edge of the river from building #7, it would be better to have a dining area below that structure. Jono's suggestion was for there to be a covered structure that would be elevated and then seating at grade.

His other suggestions to the conceptual plan are to have both sets of existing steps located along the Myakka River (northeast of the restaurant) to be removed and enhanced with native landscaping. To have the existing wood deck located along the east side of the existing restaurant to be removed and enhanced with native landscaping. For the existing boat docks and ramp located at the southeast corner of the property to remain and continue to serve as a landing area. An ADA accessible path to be provided to the existing boat docks located at the southeast corner of the property. To provide a small turbidity control swale along the north side of the existing shell parking lot area located along the west side of the parcel. To provide lighting for the public safety access to the existing parking lot areas (e.g. wooden bollard type lighting). To provide shoreline stabilization along areas that are eroding along the existing riverbank. The existing shell parking areas located within the existing park are proposed to remain.

### **Management Plan-Review of Table 4**

This table contains nine management objectives and specific actions. Members of the Council submitted suggestions previously. This is a review of those suggestions. Voting on the language will take place at a later date.

There was a general comment that motorboats should be limited as much as possible and there should be more attention on an increase in patrols that protect the water environment and wildlife.

Howard Berna suggested that jet skis use should be considered too.

Chris Oliver confirmed that he sees jet skis, now even up in the Wilderness Preserve coming up from the Snook Haven area, going through Lower Lake, not paying park fees and without a permit. All the jet skis observed were going above the posted speeds.

On Action 1.2 it was suggested to support reinstatement of the Division of Forestry's cost share program for cogon grass management. Unfortunately, this program has been suspended so Jono recommended that this suggestion be removed.

On Action 1.3 which states, "to continue to develop and implement a plan to locate, catalog and protect listed plant and animal species and species of local concern within the river and Wild and Scenic Protection Zone", it was asked why this is still ongoing after 30 years.

Chris explained it is possible to find plant and animal species that have not been seen in an area in a long time, especially until restoration efforts have been made. Some monitoring needs to be ongoing.

Becky asked that Action 1.3 be reworded to more clearly reflect that this is an ongoing plan something to be completed and checked off.

Action 1.5 which states, "to continue to compile an inventory of special ecological features along the Myakka River". The suggestion was made to add "and environmental" after "ecological".

Action 1.6 states, "Inventory and monitor changes to animal and plant communities in the river area and Wild and Scenic Protection Zone". It was asked if there is a report available for this.

Chris responded that there is an annual report on the Council's website. They do (vegetation) transects every year or two.

Becky asked if it would be appropriate to add language that this can be found on the Council's website.

Chris said that should be possible.

Action 1.10 seeks additional funding sources to acquire Vanderipe Slough as a conservation easement. The suggestion is to clarify status of Vanderipe Slough as conserved. Collaborate with Shep's Island Ranch LLC to address dike management and restoration of flows to the Slough.

Action 1.11 was added and states, "Support protection of Myakka watershed lands in Manatee and Charlotte Counties through acquisition or conservation easements".

Action 1.12 was also added stating, "Evaluate public benefits of prohibiting recreational taking of alligators on the Myakka in Sarasota County".

Jono clarified that 1.12 was based on two things. One is that people come to see the Myakka, both to the park and the river tours on Snook Haven, specifically to see alligators. When a recreational take is allowed, the majority of people are being denied that experience. The second is that the American Crocodile is now occasional found in the Myakka River so with recreational taking, there is a chance someone could take a crocodile instead of an alligator by mistake.

Chris added that there is been a decrease in the number of large alligators and good viewing opportunities. He believes some of this might be poaching but some of it is from the county-wide harvest.

Action 1.13 was added and states, “Clarify application of rules related to mangrove pruning along the Myakka in Sarasota County”.

Jono stated that he has seen an increase in mangrove trimming and is curious about how this came about.

Chris replied that mangrove trimming was allowed near dock structures to allow for access and maintenance. There are some places that are grandfathered in and those should be the only places with new trimming. When permitting was taken over by the South District Regulatory Office, they took the position that the Mangrove Trimming Act supersedes the Myakka River Rule 62D-15.

Action 2.1 states, “Strictly enforce regulations relating to water resources”. Someone asked if by strictly enforced, does that mean there will be no mitigation allowed to meet regulations and, if so, it should say that. There needs to be clarification for if mitigation is or is not allowed.

Action 2.3d requests the monitoring of tributaries and should include Flatford Swamp.

Action 2.4 states, “Conduct hydrologic study that considers all existing and potential water control structures and diversions of river water and eliminate water quality problems”. The question was raised about why this hasn’t been concluded and a suggestion of breaking this into two separate action items. One being the challenges having to do with physical structures and diversions and two, the water quality.

Lee mentioned that the SWFWMD BMP report from around 2012 would address the structures and diversions issue.

Jono agreed but also noted that there have been changes so an update of the structural impacts would be helpful.

Chris added that the actions in Table 4 correspond to the narrative where much more detail is provided on each action. He agreed that progress has been made but there are still areas needing attention.

Jono feels that it would be helpful to have a model of the Myakka River that is updated on a regular basis and accounts for changes in both structures and flows.

Chris suggested requesting a system-wide model which would have to incorporate all the existing structures.

Action 2.6 states, “Seek an exemption from the exotic aquatic plant control program within Myakka River State Park to allow the limitation or prohibition of power boats on Upper Myakka Lake and Lower Myakka Lake”. A Council member inquired, asking why.

Chris added some background in the late 1970s and 80s, the park managers and District 4 (FPS) stopped allowing boats from Upper Lake to the Wilderness Preserve. This was due to speeding boaters - being unsafe and endangering canoeists and impacting wildlife. The agency that handled aquatic funding received money from a fund that had to do with the navigability for boats. They stopped doing aquatic plant management, so this relates to 1990 when the original plan was written. The FPS was told that they could not ban motorized boats and still get assistance with aquatic plant management. So after a period, boats were allowed again.

Jono added more background including that during that period major water hyacinth jams often blocked the river and required difficult portages to pass. This created an interesting situation where a state Wild

and Scenic River was prevented from being added to the State Canoe Trail System. He thinks the park should have the ability, particularly in the Wilderness Area, to limit motorized watercraft.

Becky suggested of referring, in Table 4, to where each action is referenced in the narrative section since there may be further clarification that would not fit in the table.

Jono added that for actions that have been added, there needs to be a corresponding section in the narrative with more information.

Action 2.7 says, "Investigate alternatives to the chemical control of aquatic weeds and effective, environmentally sound management and control practice for chemical, mechanical, biological and/or physical weed control". Someone asked if there was a report for this?

Chris replied that no one has created a report for this.

Jono added that it seems worth pursuing. FWC is under fire for relying too heavily on chemical means.

Geoff Lokuta from FWC stated that their goal is maintenance management, specifically water lettuce and water hyacinth. Catching these plants before they become too infested is a way to use less herbicide overall. There are no biological controls that are being researched and proven to be effective. They are always partnering with USDA and universities to research biological controls but there is not many that are effective in aquatic plant management. Physical control is not typically done on their water bodies unless it is an initial infestation and the biologist can physically grab the few plants. Mechanical harvesting is another option but there are many issues with that. It is extremely expensive. You can spray Diquat for \$15 an acre or you could harvest for \$500 to over \$1,000 an acre. They use this on special projects where there is a justification to mobilize a harvesting company and deploy them to an area. Another issue is someone needs to spoil that material and a traditional harvester needs water depths of at least two to two and a half feet. They are committed to reducing the use of chemicals, but alternative methods are limited, and on the Myakka, chemical will be the primary use.

Jono asked if the only airboats that should be seen on the river are FWC.

Chris replied there a few official use cases. The FWC IPM contractor currently Applied Aquatics' airboats and FWC AHRES program occasionally has an airboat out for monitoring for the success of projects. Myakka River State Park is also going to be receiving a new airboat in the next few months.

Becky asked if they look at the detrimental effects of using chemicals on humans and animals.

Geoff replied that they use the chemicals that are registered for this type of use. The agency that regulates the use of chemicals in Florida is the Florida Department of Agriculture and the USEPA. There is some non-target damage, but it has been deemed safe overall for all the species of wildlife and humans.

Action 2.8 states, "Maintain and coordinate monitoring programs for the consumptive use of groundwater within Myakka River watershed. Particular emphasis should be placed on the maintenance of wetland hydroperiods". The comment was to add "and row crop bed preparation water quantities and efficiencies".

Jono explained that in order to plant certain row crops, the soil must be moist enough to be contoured. In order to get it moist, water must be pumped. Instead of trying to put water on top of that hardpan layer and have the water table come up to the surface to provide enough moisture for contouring, it would be more water efficient to attempt to moisten the soil from the top down.

Action 2.11 states, “Encourage that saltwater intrusion resulting from water withdrawals shall be prohibited”. The suggestion was clarifying what was to be prohibited? The saltwater intrusion or water withdrawals.

Becky spoke to this action saying that the District has already made the determination by the SWUCA that saltwater intrusion will not be halted. It will continue to be allowed at the pace it was moving when the rule was adopted. This is the minimum flow and level for the Floridan aquifer. ECOSWF challenged the rule but was not successful. Saltwater intrusion will not be stopped.

Jono asked if the pumped withdrawals in the basin are measured or permitted amounts?

Becky replied that they have meters on them if it is over a certain amount. She added that it is a requirement to submit pumping reports and that there is a meter on the well.

Chris asked for clarification on this action. It was determined that there is support of Action 2.11 but a narrative about the current and historic situation needs to be added.

Action 2.13 was added and states, “Address challenges associated with the Hidden River Dike. Bring dike and pump into one management framework”.

Jono mentioned that the dike is divided among two owners, Hidden River and Myakka River State Park. The pump that is supposed to reduce water levels in high water periods is in Myakka River State Park. It does not make sense to have one water control system split between two entities.

Becky added that she is not sure if there should be one entity responsible for control or two. If there is two that could cause issues because one entity might not agree with the other entity.

Linda Dickson favors a teamwork approach to this action.

Steve Giguere commented that based on a rough survey and property lines, it appears a portion is within the state park.

Becky suggested that the Council have Tony Carlton come and talk about the history and why it was put there. It was to help cattle so they could graze, not helping the river route.

Lee added that it could be reworded to say, “explore opportunities for enhancement, restoration and water stacking easements to realize a more comprehensive and beneficial management regime”.

Action 2.14 was added and states, “Work with SWFWMD and Peace River Water Supply Authority to address excess tailwater and bed prep flows while restoring historic high and low flows”.

Jono added that, historically the Myakka was a no base flow river which means that periodically there would be dry sections of riverbed separated by pools. The high flows helped determine where the river area was, where the protection zone starts and determines what vegetation can grow. Without the high flows the character of the river changes.

Action 2.15 was added and states, “Support efforts to restore historic water storage capacity of Tatum Sawgrass”.

Lee suggested that be reworded to say, “Restore historic hydroperiods within the Tatum Sawgrass Marsh”. He said that the water storage capacity hasn’t changed. Most of the dikes are low in elevation

and the river overtops them and fills up the marsh. It has most of its capacity and does not absorb 2- or 5-year rainfall events as well because of the low dikes. It does not drain as well so it holds water longer. Lee's concern is that it is staying wet year-round.

Action 3.2 states, "Continue monitoring programs and baseline studies with respect to major potential water withdrawals including consumptive use permits and potable water withdrawals affecting the Myakka River". It was suggested to add, "all" in front of potable water withdrawals. The comment was also made that the Council will oppose the designation of the Myakka River as a future water supply for potable and non-potable uses.

Action 4.1 states, "Continue to evaluate the function and composition of the Council as a management coordination body and implement and necessary modifications". It suggested to add, "of regulations for added protection of the MRPZ".

Jono interpreted this as not only evaluating the function and composition of the Council, but also evaluate the function of composition of regulations for added protection of the zone.

Chris added that the City of Venice should be added to the list of responsible parties. When this was written Venice didn't have a Myakka River Protection Zone (MRPZ).

Action 4.2 states, "Maintain an officer who will be in charge of reviewing significant permits/development applications and review and comment on proposed land development controls that regulate development within the Myakka River watershed". The question on this action was wondering if there is enough time allocated to an officer to thoroughly review permits/development applications. Is this a job for one person or do they have other responsibilities?

Jono suggested that this be broken into two actions. One mandate specifically related to Sarasota County and the designated Wild and Scenic River and additionally a mandate for Manatee and Charlotte Counties.

Jono asked Chris how much of his work centers around the Myakka watershed and how much is on other issues.

Chris estimated that in previous years about 75% of his work centered around the Myakka watershed. In the past year, he has been working on dam removal projects encompassing about 6 to 8 hours a week. This is on top of his river surveys, reports and managing the Council. He is the designated person to look at permits by any Water Management District, DEP, the county or Wild and Scenic River related issues. This is at any state park in the southwest District when there is a hydrologic or wetland concern.

Bob Clark inquired to the amount of staff that were around when this was written.

Chris clarified that there used to be a river ranger who was on the river about two out of the three days a week they worked. Their main job was exotic removal, maintaining the boats and meeting preparation. There was supposed to be a Wild and Scenic River system, the Myakka River was going to be the first. They intended staffing level was going to be 6 people for the Myakka Wild and Scenic River (MWSR) Program. Two biologists, two rangers and two law enforcement officers, one at the north end and one at the south end.

Action 4.3 states, "Encourage consistent land use planning and regulations in the watershed among all local governments and regional and state agencies to be consistent with the management plan". It was recommended that "encourage" be changed to "require".

Action 4.4 states, “DEP and others instrumental in the management of the Myakka River should seek all appropriate funding sources for the implementation of the management plan. Sources should include, but not be limited to, Manasota Basin Board, Charlotte Harbor National Estuary Program, Department of Community Affairs, etc”. The comment was that these organizations don’t exist anymore other than Charlotte Harbor, but it has been renamed to Coastal Heartland. The wording needs to be updated.

Action 4.6 states, “Encourage and provide information to help create a homeowner’s guide to regulatory requirements on the Myakka River and promote awareness and appreciation of the history and ecology of the Myakka among people living and working in the watershed”. The question was asked if this had been done yet.

Jono replied that it has not been done and he is hoping that through his legal challenge (with FDEP) this will be accomplished. In the Snook Haven proposed changes, the plan is to use the 1936 River House as an interpretive facility. He believes that people living along the Myakka were originally told that there would be more regulations, but it would be offset by increased enforcement and better protection. This might be a good project for Friends of Myakka or another Community Support Organization (CSO).

Jono continued. Action 4.8 states, “In order to reduce regulatory related costs and require only one DEP permit and fee for activities along the Myakka River, an effort should be made to transfer the permitting portion of the MWSR Program to the DEP southwest District located in Tampa”.

Jono stated that this has not worked out so well.

Jono read member comments on Action 4.8 with a suggestion to update this to reflect the South District Office of FDEP in Fort Myers as the responsible agency for permitting on the Myakka River. And another comment that the Fort Myers Office does not appear to understand the Myakka River.

ECOSWF would support a dedicated park service employee to be assigned this task which may translate into hiring more staff. A third comment was to change the language of this action to, “The permitting section of the MWSR Program, handled by the DEP South District located in Fort Myers, needs to develop a guidance document for shoreline permitting along the MWSR segment that reflects relevant provisions of the Act, Rule and Joint Agreement to educate property owners, consultants and staff regarding the unique provisions of the law”.

### **Jono Miller-Diocese of Venice**

Jono presented a PowerPoint that had an overview related to the DEP issued permit for two shoreline protection structures on the Diocese of Venice property. It was to install approximately 135 linear feet of seawall and 83 linear feet of seawall landward of the mean high-water line (MHWL) to be faced with riprap maximum at a maximum slope of two to one and located landward of the MHWL to stabilize the shoreline in protecting existing road and wastewater utilities. The two protection structures are about ¼ mile apart.

Jono is concerned because he feels that since the two protection structures are ¼ mile apart, they should be two separate permits. The permit was claiming that it was landward mean MHWL, but he does not think this is the line to start with. The permit also talks about a slope. If they create a slip structure and start at the MHWL it is going to result in the removal of a lot of vegetation and possibly their existing driveway.

Jono filed a petition on February 4, 2022. He received word on March 24, 2022 that the petition was found sufficient, so he is asking for an administrative hearing to address these concerns. The court is the Division of Administrative Hearings, the case number has not been assigned yet, the OGC No. is 21-



1331, the style is Jonathan Miller v. DEP & Diocese of Venice, the document is Request for Assignment of Administrative Law Judge and Notice of Preservation of Record sent by Ronald W. Hoenstine III, Esq and Kathryn Horst, Esq.

Jono is required to say what he is wanting to happen as a result of this. He started by saying he wants the permit to be denied but that the petitioners have valid concerns and simply denying the permit will not address them or suggest a path to success for FDEP and the applicant. His goal is to ensure that the subject approval is in full compliance with the procedures, standards and criteria of the Act, Rule and Joint Agreement and to ensure that Myakka River protections set forth in the Act and Rule are appropriately applied to ensure the Myakka "River Area" is accurately defined and located at the subject site and proposed activities incorporate features that respect the Legislature's mandate to protect and enhance the Wild and Scenic Myakka River and fully implement the requirements of the Myakka Rule, the Myakka Management Plan and the DEP Joint Agreement.

Despite mediation being an unavailable remedy, the petitioner also offers and proposes that the parties gather for some form of Alternative Dispute Resolution, if the applicant and DEP are willing to work amicably toward a mutually beneficial solution, both for this particular situation and more generally as it relates to shoreline management along the Wild and Scenic segment of the Myakka River.

Petitioner respectfully offers the following as suggestions to work amicably toward implementing mutually beneficial solutions:

- Withdrawal/suspend or hold the approval in abeyance pending new analysis
- Separate the two sites into two separate, if synchronized, permit applications
- Employ the least visually intrusive approach to stabilizing the shoreline at each site
- Consult the Joint Agreement at the onset of any permitting along the Myakka
- Submit and propose activities to the Coordinating Council for review and a non-binding advisory recommendation prior to issuing a notice of intent to approve proposed activities
- Determine the extent of the ordinary high-water line and the maximum extent of wetlands along the proposed 218-foot location and have an approved soil scientist assess wetland soils to determine both the surface waters of the state, the upland extent of wetlands and determine the greater of the two to define the River Area.
- Identify Myakka Rule Permitting documents as such in DEP's Oculus System
- Coordinate/consult in good faith on proposed activities with Parks District 4 staff.
- Consider principles of avoidance and minimization in evaluating public interest
- Require applicants to meet the public interest test for impacts in the River Area
- DEP Southern District Office create a guidance document that addresses the unique implications of the Wild and Scenic Act, Rule and Joint Agreement and Management Plan to the benefit of riverfront property owners, consultants and agency staff.

Jono explained that the Joint Agreement is an agreement that the various management agencies that created maps for a starting point to determine the River Area and that DEP would determine the River Area.

Jono received communication from DEP and Fort Myers saying that they would advise him before they were going to issue a permit, but they did not.

Because the MWSR is only 1% of all the rivers in Florida, no matter the experience, expertise or background people have in permitting on the other 99% of rivers, they are likely to start out completely uninformed of these four documents that govern management of the river. There is no single guidance document to explain the uniqueness of the Myakka River.

Jono was told that it could cost up to \$50,000 to pursue this. There is no date for the hearing yet.

Becky asked why mediation was not allowed.

Jono was not sure.

Becky asked if there was a specific form required to have agencies notify a person before action on a permit?

Jono replied that he was not aware of a specific form, but he was corresponding with the person handling the permit in Fort Myers and they indicated by email that they would let Jono know.

It was requested that Chris send a copy of the petition to the members of the Council.

Becky asked if Jono will be fundraising for the \$50,000

Discussion about the hearing process and cost associated with the process continued.

Lee stated the Conservation Foundation owns two properties on the MWSR and asked if the interpretation of rules from this case would have any negative effects on private properties rights?

Jono responded you will remember there was the Jackson Road property, that was Senator Bob Johnson's former property, this was several years ago. The initial inclination was to assume the river area was basically low on the bank and that is where the MRPZ started which would be administered by Sarasota County. In the end, in fact, the river area was approximately a quarter mile wide from the edge of the river back and through wetland areas. My hope at the time was that the DEP came to understand they could not look at a place where water meets the land in this case the MHWL – call that the river area and say everything beyond that would only be regulated by Sarasota County. So, to answer Lee's question, I think property owners along the MWSR deserve to have a guidance document to help them understand the interest of the state and the county and where they might fall. I'm not proposing any expansion of any governmental authority, beyond what already exist. I'm just contending that it has not appropriately applied in this case. Yes, it could have implications for other people but not new implications, it is simply ratifying what is in the law currently.

Chris added clarification would be benefit to land owners and managers.

Jono continued that it is heart-breaking that people are hiring consultants to work on projects to protect their properties and the consultants are not aware of the law. They do the best they can but as I have said, maybe they have worked on the other 99% of rivers in Florida. They come forward with proposals that do not reflect the unique situation of the Myakka. Meanwhile, at the South District Office, there was three separate employees responsible for overseeing this permit. You can imagine the potential for slippage between these different individuals who were all processing the permit at different points. Right now, the State of Florida has a fairly thick document, available online, called the wetland delineation manual which attempts to provide guidance for people that are trying to figure out where wetlands are on their properties and uses examples from around the state. What I have been seeking, what I believe the Council has been supporting, is there needs to be a comparable document for the MWSR that says how the Act and Rule affects shoreline stabilization. So that when a consultant is hired, they know what target they need to meet. The Diocese of Venice has lost months by hiring a firm that, I am supposing, did not have extensive experience working on the Myakka River and were generally unaware of some these provisions. They came forward with solutions that are contrary to the legislative intent of the Act.

Lee asked if there was no clear guidance on how the MHWL is calculated within the upper reaches of the river outside the estuary?

Jono indicated it was complicated but that if you go far enough up the river the MHWL and OWHL should be identical, in terms of state sovereign submerged lands. But, in terms of jurisdictional wetlands they are not the same. The OWHL has a different meaning, the OWHL in a state sovereign context does not take in to account periods where water comes up outside of the banks. When we are talking about the jurisdictional wetlands, the river area, it does include the area where the river comes out of the banks. The MHWL reflects where there is tidal influence. There is about a half-foot of tidal range at this Diocese of Venice property, compared to about a six-foot range in the OWHL at this property. The erosion that people are experiencing at this location is not a result of tidal influence or surges but a result of high surface flows coming down the river.

Discussion occurred on future meeting topics and potential dates.

**Future Agenda Items:**

- Continue reviewing the management plan
- Discussion of the results of the weir removal at Upper Lake
- Update on legal challenge of Diocese of Venice property
- Update on Sarasota County motion letter

**Becky Ayech motioned to adjourn the meeting. Michael Chouinard seconded. Meeting adjourned at 12:30 PM.**