

MEMORANDUM

TO: LCIR Members

FROM: Rip Colvin

RE: Minutes for the LCIR Meeting March 19, 2007, in Tallahassee, Florida

DATE: March 23, 2007

Representative Faye Culp, Chair of the Legislative Committee on Intergovernmental Relations (LCIR), called the meeting to order at 12:03 p.m. A quorum was present. The attendance of the Committee members was as follows:

PRESENT

Representative Culp
Senator Hill
Ms. Cunningham
Representative Hooper
Ms. Layman
Representative Planas
Councilman Polson
Ms. Saliba
Senator Siplin
Representative Waldman

ABSENT

Senator Diaz de la Portilla (excused)
Senator Oelrich (excused)

It was noted that the Governor still has 3 appointments to make for the Committee.

Opening Comments

Representative Faye Culp, LCIR Chair, welcomed the members to the meeting. She welcomed Representative Juan-Carlos Planas and Councilman Polson to the meeting. She recognized them for comments since this was their first meeting.

Representative Culp then said there is a possibility that we will be given another slot during Session to meet and if so, we will probably meet. She also added that we will have a summer meeting in Tampa. She and Mr. Colvin will come up with several dates and poll the members after Session to see which date the most members could be in attendance.

Draft Minutes from March 12, 2007 LCIR Meeting

Senator Hill made a motion to adopt the minutes as amended from the March 12, 2007, LCIR Meeting. There being no objection the minutes were approved.

Draft Report on Improving Consistency and Predictability in Dock and Marina Permitting

Chair Culp introduced Chuck Hungerford, LCIR Senior Legislative Analyst, to provide the Committee with a brief summary of the background of the 2006-07 Interim Project, *Improving Consistency and Predictability in Dock and Marina Permitting* and reviewed the Committee's options in regards to approving the report, the report recommendations, and further direction for staff.

The major findings indicated that much of the inconsistency and uncertainty in dock and marina permitting is associated with the high turnover rates among permitting review staff at the Department of Environmental Protection (DEP). These turnover rates are attributed to lower wages than are provided to their counterparts in public and private sectors and increasing workloads. Promoting greater use of the internet in the permitting process can also increase staff efficiencies and enhance communications with permit applicants. The permitting process also can be improved by promoting acceptance of DEP's Self-Certification program by local governments.

Additional findings identified the value in establishing a state certification and licensure program for marine contractors and in improving the process for identifying projects that can serve as regulatory and public interest mitigation for dock and marina permitting.

Mr. Hungerford presented nine recommendations for the Committee's consideration. The first four recommendations called for DEP to undertake actions to enhance staffing and technology resources allocated for permitting. The fifth recommendation clarified that projects meeting the exemption criteria for Self-Certification do not require further verification by DEP in order to be accepted by local government permitting authorities. The sixth recommendation encouraged the marine contractors to seek state certification and licensure by the Department of Business and Professional Regulation (DBPR). Mr. Hungerford distributed a communication from DBPR reporting that the Florida Marine Contractors Association (FMCA) has requested DBPR to undertake a review of establishing by rule the category of specialty contractor for marine contractors and that DBPR has initiated such a review.

The seventh recommendation called for locally generated lists of projects and activities that would serve as regulatory and public interest mitigation for dock and marina permitting within local jurisdictions and for DEP and the permit applicant to select projects from this list. The eighth recommendation directed DEP to continue to request participation of appropriate professional associations when developing guidance documents that concern standards of marine building materials and construction methods prior to the issuance of the documents.

The final report recommendation called for the Legislature to consider abolishing the submerged land lease fee exemptions and levy a flat fee or single fee that would apply to all single-family and multi-family docks and piers that are currently not accessed lease fees with 70 percent of the proceeds appropriated to DEP for staffing and e-permitting programs and the remaining 30 percent to be deposited into the Marine Resources Conservation Trust Fund to be used for enhancement of public boating access.

Mr. Hungerford identified current procedures providing submerged land lease fee exemptions, reviewed the methods used to calculate the estimated number of private, non-commercial docks located over state submerged lands, identified possible means to determine annual lease fee rates, and outlined possible impacts to Florida residents with and without docks or boats. Additional issues regarding equitable treatment of private dock owners, public policies requiring public use and just compensation for projects located on state owned properties, and ad valorem taxation were presented for the Committee's consideration.

Mr. Hungerford concluded the presentation noting provisions for three types of exemptions to the submerged land lease fees: 1) for docks located on submerged lands that are not owned by the state; 2) for docks essentially destroyed or otherwise no longer usable where the property owner desires to have the letter of consent to use state submerged lands voided; and 3) for docks where the property owner is on a fixed income and the lease fee would constitute a financial hardship.

Mr. Hungerford and Richard Cantrell, Deputy Division Director at DEP, responded to several questions

regarding languages available in e-permitting programs and characteristics of docks currently exempted from submerged land lease fees. Mr. Cantrell noted that DEP applications and correspondence, including e-mails, are limited to the English language.

Additional testimony was provided by Peggy Mathews, FMCA Governmental Relations Representative, Rick Higdon, President C.R. Higdon Development, L.L.C., and John Loftis, President of Loftis Marine Division. The speakers thanked the LCIR for undertaking the project and spoke in favor of the draft report and findings. Ms. Mathews supported recommendations 1-8 and noted that the FMCA would be happy to work with DEP to develop a review matrix in regards to assessing mitigation costs associated with proposed water-related projects and to continue working with FMCA and DEP on the submerged land lease fee recommendation. Mr. Higdon opposed levying a flat tax on dock and marina owners currently not paying a submerged land lease fee.

Mr. Loftis expressed his support for all of the recommendations in the report. He reported very positive experiences using the self-certification program and would like to have it expanded to all docks and marinas. He noted that he and other marine construction contractors like him support the existing permit application fee as well as an annual land lease fee and thought their clients would find the annual lease fee a non-issue overall. Mr. Loftis reported that most marine contractors would prefer that other marine contractors to be certified, licensed, and carry all required insurance.

The Committee discussed approval of the report and whether to approve all nine recommendations contained in the report. Principal focus of their discussion focused on various aspects of the recommendation to have the Legislature consider the abolishment of submerged land lease fee exemptions and levy a flat or single fee that would apply to all single-family docks and multi-family docks and piers that are currently not accessed lease fees. The Committee approved the draft report with one member voting against approval in opposition to recommendation 9.

Presentation of Draft Report on School Storage and Recovery in Florida

Chair Culp introduced Kay Pelt, LCIR Analyst, who presented the draft *School Storage and Recovery in Florida Report*. Ms. Pelt stated that the *School Storage and Recovery in Florida Report* is a follow-up to the *Natural Disaster Preparedness, Response, and Recovery Report* which was approved by the committee in March 2006. In the Disaster Recovery Report, one of the issues that the committee expressed interest in having further examination was temporary storage of vital records, supplies, and equipment at schools during a hurricane event.

To this end, LCIR staff, with the assistance of the Florida School Boards Association and the Florida Association of School District School Superintendents, distributed two surveys to each of the 67 School Districts, to assess the Storage and Recovery needs, challenges, and best practices within Florida's School Districts.

Based on findings from the surveys, the *School Storage and Recovery in Florida Report* provides two recommendations:

- The state should create a definition to specifically address the needs of the school districts. "School District Vital Records" could include comprehensive student data, personnel data, and financial data such as payroll, school budget, and travel.
- Require each school district to develop a Disaster Storage and Recovery Plan that includes "School District Vital Records" as defined. The plan may include procedures for the storage of electronic

equipment and textbooks as well as other items deemed necessary by the district. The plan should include a reciprocal agreement with a county at least 200 miles away to serve as a “hot site” to back-up information and critical operations. This plan should be filed with the Division of Emergency Management and updated every three years.

Chair Culp asked how many schools had a plan that included an offsite storage facility for student records. Ms. Pelt replied that she would find that answer. Senator Tony Hill then asked if there were any schools that had plans that included offsite storage facilities. Ms. Pelt answered that there were some respondents with offsite facilities but there was no distinction as to the offsite facilities location or distance from the main center.

Ms. Joanna Cunningham asked if the recommendation was for each school or for the entire district to create a plan and store these records. Ms. Pelt answered that the recommendation was for the district to complete the task so that all schools in that district would be covered.

A motion was made to approve the report. The motion was adopted without objection.

Briefing on Recent Federal Activities in Washington, D.C.

Chair Culp called on Lydia Mount, LCIR Senior Analyst, to provide a general overview and update on significant federal legislative developments. Mrs. Mount began by discussing LCIR’s federal directives which entail several initiatives to strengthen the relationship between the Florida Legislature and Florida Congressional Delegation. She stated that the time was opportune given new leadership in Washington, D.C. and Tallahassee and that in furthering that goal, LCIR intends to:

- Plan for a federal/state summit, as there has not been one in four years. At LCIR’s urging, the summit was placed on the agenda of the Congressional Delegation meetings in January and February 2007 without closure. Mrs. Mount advised that two weeks ago, Congressmen Lincoln Diaz-Balart and Alcee Hastings circulated a formal letter asking the membership to choose a summit date of May 30, May 31, or during March 2008, while the Florida Legislature is in session. She indicated that the May dates were approved by the Presiding Officers and Governor Crist. She further explained that, based on delegation feedback last week, the delegation prefers to have a summit during a committee week of the Florida Legislature this fall on a Monday. Mrs. Mount added, although this will likely take place in October, the actual date cannot be determined until the Presiding Officers set the committee calendar.
- Attend key Florida Congressional delegation meetings. In February 2007 Chair Culp, Senator Tony Hill, (LCIR Alternating Chair), Rip Colvin (LCIR Executive Director), and Mrs. Mount traveled to Washington, D.C. to attend the February 8 Florida Delegation Meeting. Issues covered in that meeting were highlighted in a memorandum from Chair Culp to Speaker Marco Rubio on February 14, 2007. Senator Hill mentioned that a Memorandum of Understanding issue was raised at the Congressional Delegation Meeting regarding the TWIC (Transportation Worker Identification Credential) Program requirements that are being imposed on states by the federal government. [TWIC is a part of the Safe Port Act. Essentially, this program will enhance port security by checking the backgrounds of workers before they are given access to secure areas of vessels and maritime facilities. The final rule was posted on January 1, 2007. The rule will impact more than 750,000 port employees, longshoreman, mariners, truckers, etc., who require access to secure areas of ports and vessels. A phased-in implementation will begin in March 2007.] Florida already has a credential program in place that may exceed federal guidelines. At issue is whether the federal

government will allow Florida's worker identification credentials to satisfy federal requirements; hence the need for a *Memorandum of Understanding*.

- Collaborate with state legislative staff;
- Collaborate with Congressional, Committee, and federal agency legislative staff;
- Publish and Circulate Federal Focus Newsletters;
- Enhance the LCIR website to include federal information; and
- Make select informational presentations.

After commenting on the federal directives and listing the priority federal issues identified by the Presiding Officers, Mrs. Mount asked Thomas Zuehlke, LCIR Analyst, to briefly cover Congressional legislative developments on a national CAT fund and Everglades Restoration.

Mr. Zuehlke noted that U.S. Representatives Klein and Mahoney have been asked to investigate property insurance reform for the U.S. House Committee on Financial Services. He pointed out that U.S. Representatives Wexler, Feeney, Putnam, and Brown-Waite also serve on this committee, giving Floridians a powerful voice on the subject. Mr. Zuehlke explained that legislation filed in the 110th Congress would create a commission charged with examining catastrophic risk, then generating a final report and presenting findings to the Legislative and Executive Branches of the federal government.

Mr. Zuehlke stated that Florida has taken the lead in funding Everglades Restoration, and noted the expectation that, by the year 2010, Florida will have spent \$4 for every \$1 the federal government has spent on this measure. Legislation filed in the 110th Congress could lessen this disparity in spending, and Mr. Zuehlke informed the Committee that this legislation could authorize more than \$850 million for projects critical to Everglades Restoration. Finally, he noted the importance of a Water Resources Development Act to restoration efforts and the role played by U.S. Senator Bill Nelson and Florida Senator Dave Aronberg in attempting to secure this funding.

Ms. Layman was recognized for a question and thanked the Chair and staff for their attendance at the February Florida Delegation Meeting in Washington noting that Governor Crist had also submitted written testimony on the importance of this Act. Furthermore she pointed out that this issue may in fact be resolved by the time a Federal Summit is organized and expressed interest in exploring another issue such as alternative energy.

Following the presentation by Thomas Zuehlke, Mrs. Mount continued the briefing on congressional developments. In consideration of time, she highlighted major issues relevant to stated priorities, such as the introduction of offshore drilling legislation (*The Security and Fuel Efficiency Energy Act of 2007*) by U.S. Senators Byron Dorgan of North Dakota and Larry Craig of Idaho which would undo restrictions enacted by the 109th Congress. Drilling would be allowed as close as 45 miles of Florida's coast. She indicated that Senator Martinez has already filed counter legislation.

She also mentioned the *National Institutes of Health Reform Act of 2006*, which was signed by the President on January 15, 2007. This law affirms the importance to NIH in advancing the nation's health through biomedical research. Specific mention was also made of Title II within this law, which requires

that unspent SCHIP funds from FYs 2004-2005 be redistributed to states having shortfalls in FY 2007. The average federal match rate for SCHIP is 70%, as opposed to 57% for Medicaid.

The Real ID Act of 2005 was mentioned, which will require all states to issue drivers' licenses that conform to federal standards by December 31, 2009. Mrs. Mount advised that, much to the relief of states, this deadline was recently extended. U.S. Department of Homeland Security (DHS) Secretary Chertoff has announced that states may use 20% of their FY 2007 homeland security grants to help with the implementation of Real ID. According to DHS, nationally, this means that legal drivers will pay approximately \$7-9 more for a new driver's license. She also advised that Florida ranks first in receipt of federal highway emergency relief allocations for FYs 2001-2007 at 26% of the national share.

In consideration of veterans, Mrs. Mount mentioned the success of Florida's four-month VA pilot (State Benefits Seamless Transition) Program. This program, which endeavors to help our injured soldiers receive all of the benefits for which they are entitled from the state and federal government, has been expanded nationally. Also, the *Health Care and Information Technology Act of 2006* (PL 109-461) was passed by the 109th Congress and calls for: New VA facility in Orlando; renovations to the VA facility in Gainesville; an ambulatory, surgery, and diagnostic center in Lee County; upgrades to facilities in Tampa; and reimbursement to state operated veterans homes for patients having a 70% service connected disability.

On the education front, Mrs. Mount indicated that *No Child Left Behind* (NCLB), which is due to expire on September 30, 2007, has never been funded at authorized levels. From FY 2002-2007, Florida received 39% less than what was authorized. This gap was also experienced by all other states and contributes to the perception that NCLB is an unfunded mandate.

Mrs. Mount concluded her comments by discussing the leadership of Senator Martinez on immigration issues—albeit without reconciliation by the 109th Congress—and Senator Nelson's efforts to secure national ports through nuclear monitoring devices. She advised the Committee that the U.S. Senate passed a bill to enact several provisions of the September 11 Commission Recommendations (S. 4). The President may veto this bill due to its inclusion of collective bargaining rights for airport screeners. The House passed a companion bill (HR 1). Mrs. Mount discussed the differences between the Senate and House versions which must be reconciled in conference. Basically, the Senate bill will offer a minimum of 45% funding to states in homeland security grants, but will offer more to states having the greatest risks. The House bill would set minimums at 25%, but border states would receive 45% of total funding.

Suggestions and Comments from the Committee

It was suggested that CDBG funding be added to the priority list, if accepted by the Presiding Officers; that a fair share perspective for the environmental sector be examined exclusive of the Everglades Restoration Program, as well as information about Conservation Assistance and Regional Equity (CARE) funding; and that the LCIR make necessary trips to Washington to advance stated priorities. Also, concern was expressed about the probability of the federal/state summit this year.

Motion to Extend the Meeting

Senator Hill made a motion to extend the meeting at 1:58 p.m. in order to complete the next item on the agenda. The motion was adopted without objection.

Discussion of LCIR Interim Projects

Chair Culp asked Rip Colvin, LCIR Executive Director, to go over the current LCIR interim projects and give the status of each.

Mr. Colvin said a lot of the interim projects that staff works on are projects that the Committee members bring to us. We will work on projects developed in house, but we will also look to the Committee members to bring to us ideas that they have that may be of an intergovernmental nature. At the next meeting, we will be looking to the members for ideas that they may have to bring to the Committee for consideration as interim projects.

Behind Tab 7 you have the interim projects list which we have been working on during 2006-07. There are two remaining projects that have to be wrapped up: The draft report on the Emergency Management, Preparedness, and Assistance Trust Fund and The Handbook for Small Local Governments.

There being no further business, Senator Siplin moved we rise.

Meeting adjourned at 2:08 p.m.