



June 27, 2011

Jeffrey Klatzkow, County Attorney
3299 Tamiami Trail East, Suite 800
Naples, FL 34112

Dear Mr. Klatzkow:

The Conservancy of Southwest Florida, representing our over 6,000 members, supports a strong, protective fertilizer ordinance for the benefit of our regional water quality. Specifically, we support the adoption of the following effective measures: (1) No greater than 4 lb. nitrogen per 1,000 square feet per year, (2) Use of 50% slow release nitrogen product, (3) No phosphorous application unless testing reveals soil deficiency, (4) Fertilizer-free buffer zone of 10 feet with deflector shield, (5) Rainy season prohibited application period from June-September (or, alternatively, as directed by the Commissioners, two months during August and September).

Collier County Meets State Statute Requirements to Adopt More Stringent Measures

Some of the measures proposed to more adequately protect our waters from fertilizer nutrient pollution are more stringent than the State Model Ordinance. We are fully cognizant of the state statute regarding local ordinances more stringent than the State Model, and the County can meet the requirements necessary to adopt the more stringent, more protective measures.

As you are aware, due to the presence of impaired waters within the County, the County is required to adopt the State Model Ordinance, at a minimum¹. The County may adopt more stringent standards to address local conditions, such as quality of water bodies, soils, urban or rural characteristics, etc.². The State Model Ordinance states that avoiding confusing jurisdictional differences should also be a consideration when proposing more stringent measures³. In the case of Collier County, adoption of more stringent measures as proposed (such as those listed above), would minimize such differences between the County's adjacent municipalities.

Additionally, the State Model Ordinance provides guidance that more stringent measures are most appropriate when the municipality has "verified impaired waters and are facing existing or

¹ Fla. Stat. §403.9337(2).

² Fla. Stat. §403.9336.

³ Florida Department of Environmental Protection and University of Florida IFAS Extension. Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions. Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. P. 23.



possible TMDL requirements,” “verified harm to human health or harm to the environment,” and that they will help “prevent future impacts of fertilizers on the environment⁴.” Although the guidance recommends that municipalities meet at least one of these points, Collier County could meet all three.

To adopt more stringent standards, the state statute asks that (a) fertilizer management be one component within a comprehensive program aimed at reducing nonpoint nutrient pollution⁵, (b) the program is “science-based”, economically and technically feasible⁶, (c) the measures be necessary to address nonpoint source pollution loading to a waterbody⁷, (d) relevant scientific information has been considered in a public way⁸, and (e) the County has solicited and reviewed input from Florida Department of Agriculture and Consumer Services and University of Florida Institute of Food and Agricultural Sciences⁹.

Collier County has an Existing Comprehensive Program

In December, the Conservancy of Southwest Florida submitted a letter to the County regarding science-based support for the more stringent measures, as well as providing examples of the County’s existing comprehensive program. The County’s comprehensive program includes, but may not be limited to, existing code language regarding landscaping and irrigation practices¹⁰, as well as water pollution and litter control ordinances¹¹. A water monitoring program, the Gordon River Water Quality Park, and educational measures also contribute to the existing comprehensive program. Although these programs are in place, additional nonpoint source reductions are needed; a strong, protective fertilizer ordinance would make a good addition to this program.

Stringent Fertilizer Ordinance is Science Based and Meets State Statute

In our December letter, and in subsequent public hearings, the Conservancy submitted several scientific and technical documents that support the need for more stringent fertilizer ordinance regulations and the fact that the proposed more stringent measures are science-based. Additionally, we include, as an attachment to this letter, a CD with over fifty sources that can provide support for the more stringent measures proposed by the County.

The scientific and technical sources include information regarding the effect of nutrients, including nutrient pollution from misapplication and misuse of fertilizers, on the degradation of water resources. For example, we provided information that excess nutrients in waters can facilitate harmful algal blooms, as well as extend the life of algal blooms, such as red tide. Other

⁴ Florida Department of Environmental Protection and University of Florida IFAS Extension, 2009. Florida-Friendly Landscape Guidance Models for Ordinances, Covenants, and Restrictions. Model Ordinance for Florida-Friendly Fertilizer Use on Urban Landscapes. P. 23.

⁵ Fla. Stat. §403.9337(2)(a).

⁶ Fla. Stat. §403.9337(2)(a).

⁷ Fla. Stat. §403.9337(2)(a).

⁸ Fla. Stat. §403.9337(2)(b).

⁹ Fla. Stat. §403.9337(2)(b).

¹⁰ Collier County LDC, §4.06.05, 3.05.07, Ordinance 90-121.

¹¹ Collier County Ordinance 54-60, 118-56.

sources discuss the science-based need for additional fertilizer measures that protect economic and environmental interests, in addition to human health.

We also provide scientific and technical information that supports the specific more stringent measures, including (1) No greater than 4 lb. nitrogen per 1,000 square feet per year, (2) Use of 50% slow release nitrogen product, (3) No phosphorous application unless testing reveals soil deficiency, (4) Fertilizer-free buffer zone of 10 feet with deflector shield, (5) Rainy season prohibited application period from June-September (or, alternatively, as directed by the Commissioners, two months during August and September).

Many of the attached documents recommend limiting nitrogen application to avoid environmental harm as well as pest infestation, protecting water resources by using a buffer zone, and not applying fertilizer within 24 hours of a rain event. Furthermore, we would specifically like to draw your attention to the following resources (in order by date):

- IFAS, Trenholm, Kruse and Unruh, 2010. The Lawn Fertilizer Toolbox.
- Lehman, Bell, Doubek & McDonald, 2010. Reduced River Phosphorous for Three Years Following Implementation of a Lawn Fertilizer Ordinance.
- IFAS and FDEP, 2009. Florida Yards and Neighborhoods Handbook. [Note that this document was provided to the Commissioners by Dr. Nell of IFAS on June 14, 2011.]
- IFAS, Trenholm & Unruh, 2009. Figuring Out Fertilizer for the Home Lawn.
- IFAS and FDEP, December 2008. Florida Friendly Best Management Practices for Protection of Water Resources by the Green Industries.
- IFAS, Mylavarapu, 2008. Impact of Phosphorous on Water Quality.
- IFAS, Sartain, 2007. General Recommendations for Fertilization of Turfgrasses on Florida Soils.
- IFAS, Sartain, 2001. Soil and Tissue Testing and Interpretation for Florida Turfgrasses.

Many of these sources are IFAS and FDEP documents that provide science-based support for the more stringent fertilizer regulations.

Stringent Fertilizer Ordinance Necessary to Address Pollution Loading to Waterbodies

The County has several waterbodies that have been deemed impaired –not meeting state water quality standards- by the Florida Department of Environmental Protection (FDEP) due to or as a result of excess nutrients. At least two of those waterbodies, Lake Trafford and the Gordon River Extension, have a set Total Maximum Daily Load (TMDL). In the case of the Gordon River, the TMDL will require a 29% reduction in nutrient load from within the watershed, which is highly urban¹². County staff has acknowledge that regardless if fertilizer nutrients runoff or leach into the ground, “the addition of any nitrogen from fertilizers is problematic¹³” in meeting this TMDL. This is one example of why more stringent measures are needed above the State Model.

¹² Florida Department of Environmental Protection, 2008. TMDL Report Dissolved Oxygen TMDL for the Gordon River Extension, WBID 3278K.

¹³ Hatcher, February 2, 2011. Memo from Collier County Mac Hatcher to FDACS, FDEP and IFAS Request for Input on a Proposed Collier County Fertilizer Ordinance.

Scientific Information Reviewed Publicly and Within the County Record

Manatee County passed their more stringent ordinance about a month ago. As a component of meeting this requirement of the state statute, they placed much of the scientific information they reviewed on their County website. Likewise, Collier County has an existing public County website devoted to this issue in which input from stakeholders and science-based documents can be viewed by the public. The website is located here:

<http://www.colliergov.net/Index.aspx?page=2302>.

Additionally, the County has received and reviewed science-based information through its public hearings on the issue at the Environmental Advisory Committee, the Collier County Planning Commission, and the Collier County Board of County Commissioners. Testimonies and print outs provided at those meetings are also a part of the public record.

County Has Solicited and Reviewed Information from State Agencies

Collier County has received input from the Florida Department of Environmental Protection (FDEP), Florida Department of Agriculture and Consumer Services (FDACS) and the University of Florida Institute of Food and Agricultural Sciences (IFAS).

These agencies do not have approval authority on whether the local municipality has met their interpretation of the state statute. The statute language only asks that the local body consider their input and make their input available on the public record. The three agency letters are currently available on the County website.

Input from the agencies, many times, is the same cut-and-paste from one municipality to the next; it appears that local conditions and the need for additional water quality protections are often times not adequately reviewed. For example, the County's existing impaired waters and TMDLs were not mentioned in any of the letters. It is even absent in the letter from FDEP, the agency that is responsible for ensuring compliance with water quality standards.

Regardless, the County does not need to rely on the opinion of the agencies for its decision-making. The state statute is satisfied because the County received and reviewed their letters; making them available to the public. The more stringent measures are science-based, and in fact, represent current scientific and technical information from IFAS and FDEP.

Conclusion

Given the public meetings and public resources the County has invested in the adoption process of the proposed fertilizer ordinance, as well as the scientific information presented by the Conservancy of Southwest Florida, and others, the County has met all components of the state statute and may adopt the proposed more stringent fertilizer ordinance. We ask that the County proceed with the adoption of the more protective measures, including those outlined above.

If you have any questions, please feel free to contact me at (239) 262-0304 ext. 286. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amber Crooks', with a stylized flourish at the end.

Amber Crooks
Natural Resources Specialist

Cc:
Collier County Board of County Commissioners
Mac Hatcher, Collier County
Leo Ochs, Collier County (sans attachment)

ATTACH: CD