

## Lee commissioner worries state will under-mine local permitting process

By CHARLIE WHITEHEAD

Sunday, March 30, 2008

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A war of words between Lee County commissioners and their local state representatives has escalated to thinly veiled threats.

The war is over pending state legislation that commissioners say would boot local governments out of the permitting process for mines.

Last week, Commissioner Frank Mann dashed off a letter to Sen. Burt Saunders, whom county officials have begun to see as a potential savior, since the bill on his side of the aisle may be headed to the Environmental Protection and Conservation Committee, which he chairs. Mann urged Saunders to publicly state his opposition to bills sponsored by Sen. Mike Bennett and by a committee chaired by Rep. Trudi Williams, both members of the Southwest Florida delegation.

"By now you know there exists a major issue that divides the Lee County Legislative Delegation and the Lee County Commission," he wrote.

Mann said it pains him that the legislative proposals could impact their personal relationships.

"But you must know that I cannot accept what the delegation is doing to the people of Lee County by usurping their right to protect and defend themselves," he said. "As a lifelong resident of Lee County I will tell you that I am personally offended by the arrogance of the Legislature."

Mann asked Saunders to declare his own position on the pending bills.

"Your public and immediate position is required," he wrote. "Your acquiescence to the positions taken by Senator Bennett and Representative Williams will clearly demonstrate your support for the efforts to ignore Lee County's citizens' best interest."

Saunders said that he agrees with what Mann has to say — pointed as it is.

"It was very well-written and very to the point," he said. "I agree with Commissioner Mann that we have to be very careful about preempting local jurisdiction on land use matters. Aggregate mining is a very intense use and local government should be able to determine when and where it takes place."

Saunders said he's not convinced the bill will or should be reviewed by his committee.

"I understand that several people are urging it be referred to the committee," he said. "We have a fairly shall-we-say robust process about referring bills. If it's determined it's an environmental issue... I'm not so convinced it is. It's clearly a land use issue and we deal typically with more environmental issues."

Mann told members of the county's Density Reduction-Groundwater Resource committee last Wednesday not to worry about pending bills in Tallahassee that may render all their efforts moot.

"I would encourage you guys to stay out of that," he told the 15-member group. "The county

feels threatened if a bill passes that all the work they've done will be for naught. We'll do everything we need to get that off the railroad and onto a side track."

The commissioner-appointed DRGR committee has already spent dozens of hours learning about the 83,000-acre southeast Lee area. The committee's deliberations encompass more than mining, but that issue has dominated its conversations.

Right after Mann spoke to the committee, he sent the letter to Saunders. The commissioners think Saunders could salvage local control by killing the bill.

Maybe not. A letter written by Rep. Paige Kreegel and signed by Bennett, Williams and Reps. Mike Grant and Gary Aubuchon says veiled political threats are not the way to go.

"To begin with, we completely disagree with your characterization that the legislative delegation is doing something TO the people of Lee County on the subject of mining," the letter says.

It points out they were elected to represent Lee citizens at the state level, and aggregate mining has become a state-wide issue.

"When relatively wealthier counties such as Lee and Collier institute a moratorium on mining this just serves to 'pass the buck' onto the less well-off, inland, rural counties such as DeSoto and Hendry, which are also a part of our Southwest Florida delegation," it says.

Moratoriums mean higher prices for rock and fill, it says, which means higher road costs and higher taxes. A patchwork of local moratoriums begs for a state-wide solution, it says.

"Veiled political threats, vague or otherwise do not contribute to a solution," it says. "Although the bill originated with Rep. Williams committee, be aware that this approach has wide support both at the council level and with House and Senate leadership. Other approaches being discussed up here are vastly more ominous, including having counties with moratoriums in place forfeit part of the DOT funding."

The letter closes with a plea to work together instead of taking an adversarial approach.

Mann said he was disappointed in the letter, especially seeing it was signed by five delegation members.

"That letter was the industry spiel," he said. "I recognize the language, and I'm sure the industry helped draft the letter."

Mann said the county's done nothing to provoke such a reaction, especially the threat of withholding road funding.

"I don't think anyone would go through with that," he said.

Lee Commission Chairman Ray Judah said there's a clear connection between mining and the environment, and he hopes Saunders comes around.

"It's directly related to ground and surface waters, and there's direct impact to the surface of the land where mining takes place," he said. "The bill should go to his committee. I hope he gives it more thought."

Bennett could not be reached. Williams said she doesn't see the bill that came from her committee as threatening local control. She thinks the Department of Environmental Protection does a good job reviewing mine permits, and that's where the responsibility should stay.

"As I've listened to the debate, no city or county has given much credence to DEP," she said.

Williams said counties have had the right to request delegation of permitting authority from DEP since 1994, and none have.

"They're not getting booted out of the process," she said. "If they don't want mines they have to take mines out of their comp plan."

Lee County's comprehensive growth management plan does allow mining in the DRGR, though commissioners imposed a 12-month moratorium on new and existing applications late last year.

Williams said she sees locals as still having authority over issues like buffering and road impacts.

"I don't think the state wants to tell the county what their business is," she said. "People are being denied the right to operate a business when they bought the land for it."

There is a private property rights issue at stake, Williams said, when a landowner goes to the considerable trouble and expense to get a permit from DEP and the county stops it.

"That is just downright wrong," she said.

It's not just mine owners and nearby residents that are affected, Williams said.

"Because Better Roads can't use a mine five miles away, they have to drive 65 miles to Charlotte County to get material for the I-75 project," she said. "Instead of driving on roads for five miles, they're driving 65 miles on I-75. With what gas costs, what sense does that make?"

Williams, an engineer, also dismissed arguments that mines harm water quality. Simply digging a hole to remove rock from the ground doesn't do that, she said.

"I don't understand why they're so up in arms," she said. "In Tallahassee they say this is the Enviro Up In Arms for No Growth Bill."

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