

Jim Konish
4/15/15
#130547

Navigant Investigative Review

Questions:

- 1) On what date was a Navigant Draft Final Report, electronically or otherwise, provided to the City of Gainesville or it's current or former employees and/or contractors?
- 2) Did the City request changes to the final draft report released to the public on April 8, 2015?
- 3) If the answer to Question 2 is Yes:
 - a) Who suggested the changes?
 - b) What were the changes?
 - c) When were the changes made?
- 4) Is there a list of persons Navigant interviewed during its investigation?
- 5) Did any person invoke their 5th amendment right against self-incrimination during the investigation?
- 6) Was Pegeen Hanrahan or Robert Hunzinger interviewed by Navigant?
- 7) Navigant is licensed by the Florida Department of Agriculture Lic. No. A2900360. What is their Florida License?
- 8) Please identify all members of the Florida Bar and their Fla. Bar No.(s) responsible for the legal conclusions reached by Navigant regarding:

a) Whether the GREC contract or equitable adjustment was voidable.
(p.19)

b) Whether there was a change in law to support the equitable adjustment
(p. 20)

c) Whether GRU staff acted within the scope of their authorization (p. 20).

9) When and where was Navigant authorized by City of Gainesville to render legal conclusions?

10) Did Navigant disclose to the City of Gainesville its indirect relationship with GREC regarding its promotion of wind power in the Northeast?

11) On page 13, bottom paragraph, the report references "iii. guidance provided by the (former) City Auditor and City Commission in providing oversight during the investigative process" (emphasis added). Please explain.

12) On page 176, Navigant incorrectly characterizes Perry's HB 1325 legislation and touts an advisory board as a viable alternative to an independent board. These conclusions are contrary to the conclusions reached by the Chamber's Study Group. On page 35, contrariwise, Navigant references Moody's bond rating service's preference for a governing board that "minimizes political interference in the professional management...." Please explain.

13) Why did Navigant not investigate the 2nd Amendment to PPA dated June 30, 2011 titled as a Consent and Agreement regarding GREC financing?

Up in the Air


What the Northeast States
Should Do Together
on Offshore Wind
Before It's Too Late

Photo Credit ©ABB

Clean Energy Group
Lewis Milford and Val Stori

&

Navigant
Bruce Hamilton and Jim Peterson

 **CleanEnergy**Group
Innovation in Finance, Technology & Policy

NAVIGANT

ACKNOWLEDGEMENTS and DISCLAIMERS

This report was made possible by the generous support of the New York Community Trust. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring. The views and opinions of the authors expressed herein are the authors' alone. Unless otherwise noted, all photo credits are attributed to Siemens AG, courtesy of the NREL Image Gallery. Cover photo is used by permission, courtesy of ABB.

© 2015 Clean Energy Group

About Clean Energy Group

Clean Energy Group (CEG) is a national nonprofit organization that promotes effective clean energy policies, develops low-carbon technology innovation strategies, and works on new financial tools to advance clean energy markets. CEG works at the state, national, and international levels with stakeholders from government, the private sector, and nonprofit organizations. CEG promotes clean energy technologies in several different market segments, including resilient power, energy storage, solar, and offshore wind. Above all, CEG also works to create comprehensive policy and finance strategies to scale up clean energy technologies through smart market mechanisms, commercialization pathways, and financial engineering. CEG created and now manages a sister organization, the Clean Energy States Alliance, a national nonprofit coalition of public agencies and organizations working together to advance clean energy through public funding initiatives.

www.cleanegroup.org

About Navigant

Navigant is a specialized, global professional services firm dedicated to assisting clients in creating and protecting value in the face of critical business risks and opportunities. Navigant Consulting® services include a wide range of financial management services, investigation services, litigation support services, and business management consulting services, as well as software programs for use in database management, analysis and benchmarking. Through senior level engagement with clients, Navigant professionals deliver expert and advisory work through implementation and business process management services. The firm combines deep technical expertise in Disputes and Investigations, Economics, Financial Advisory and Management Consulting, with business pragmatism to address clients' needs in highly regulated industries, including Construction, Energy, Financial Services and Healthcare.

www.navigant.com

Executive Summary

According to the latest news, the country's first proposed offshore wind project, Cape Wind, might never be built. Despite the best efforts of Massachusetts state officials to support the market for years, the disappointing news highlights a stark conclusion: *current offshore wind policy isn't working.*

While the Cape Wind project floundered amidst fierce local opposition, the project's difficulties highlight a larger policy problem—it is difficult, if not impossible, for any single state to jumpstart the offshore wind industry.

With the Northeast's keystone project in limbo, only a few small projects might be built. Going forward, there is no solid pipeline of large projects to prove the economic and environmental benefits of this technology and bring it to scale.

The bottom line is that a new policy approach must be put in place to support a robust offshore wind industry in the United States. To be effective, that approach must rely on multi-state collaboration.

Offshore wind will only become cost competitive and reach its true potential if the states in the Northeast region act together to help create a market for the technology. The current, go-it-alone, single-state policy approach has failed.¹

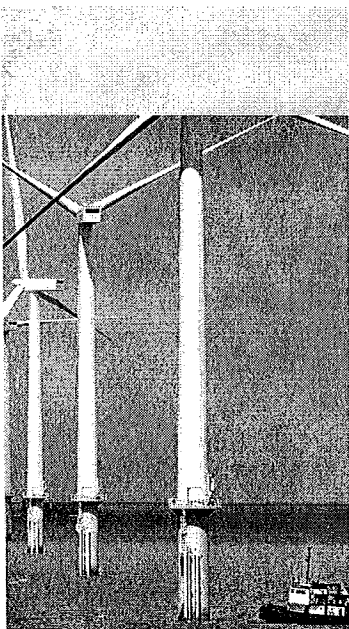
Without effective collaboration among the states, a market for offshore wind in the Northeast will not develop and the few small projects in development might well be the last. It is that simple.

This paper takes up the challenge of multi-state policy collaboration on offshore wind. It does the following:

- It shows the **strong regional economic opportunities** for offshore wind in the Northeast.
- It shows the multiple **regional environmental benefits** of a growing offshore wind market.
- It details the many challenges and barriers to a strong regional market, and then lists **actions Northeast states could take together** to build this market—from setting regional procurement targets to developing joint financing and development mechanisms to concerted supply chain development.
- It details specific policy measures states could adopt together to build out this market, including creation of **multi-state buyers' networks** and bargaining agents to purchase offshore wind power on behalf of multiple states.
- It then proposes a **regional collaborative process** for the states to use to consider these measures and to decide whether to pursue offshore wind as a regional no-carbon resource.

While hopeful, this paper does not minimize the challenges. It notes that offshore wind is currently an expensive power resource, much as solar PV technology was twenty years ago. Since that time, policy measures, business models, and incentives—all targeted directly to solar technology—have brought precipitous drops in solar prices to customers. As a result of those concerted policies, in many regions of the country, solar has become an affordable, financeable, and commercially viable source of energy.

A new multi-state policy approach must be in place to support a robust offshore wind industry in the U.S.



**ARTICLE I. ESTABLISHMENT,
CORPORATE LIMITS, AND POWERS**

1.01. Establishment and general powers.

The City of Gainesville, created by chapter 12760, Laws of Florida, 1927, as amended, shall continue and is vested with all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, render municipal services, and exercise any power for municipal purposes, except as otherwise provided by law.

1.02. Territorial limits.

The territorial limits and boundaries of the municipality existing in Alachua County under the name of the City of Gainesville shall embrace all of the territory described as follows:

Editor's note—At the discretion of the city, the legal description of the municipal corporate limits of the city, formerly set out in § 1.02, has been placed in Appendix I to the Charter.

1.03. Construction.

(1) The powers of the city shall be construed liberally in favor of the city, limited only by the State Constitution, general law, and specific limitations contained in this act.

(2) If any provision of this act or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

(3) All powers and authority granted by this act are supplemental and additional to all other statutory and constitutional authority.

(4) For purposes of this act, the term:

(a) "City" means the City of Gainesville.

(b) "Commission" means the city commission as established in Article II.

(c) "State" means the State of Florida.

1.04. Special powers.

In addition to its general powers, the city may:

- (1) Acquire by purchase, gift, devise, lease, lease-purchase, condemnation, or otherwise, real or personal property, or any estate or interest in property, within or without the city limits, and for any of the purposes of the city, and to improve, sell, lease, mortgage, pledge, or otherwise dispose of its property or any part of its property.
- (2) Acquire, purchase, hire, construct, extend, maintain, own, operate, or lease local public utilities, including: cable television, transportation, electric, telephone, and telegraph systems; wastewater and stormwater facilities; works for supplying the city and its inhabitants with water, gas, and electric energy for illuminating, heating, or power purposes; water, electric, and gas production, transmission, and distribution systems; sanitary sewage facilities; wastewater transmission and disposal facilities; and any and all other utilities as the welfare of its residents reasonably demands.
- (3) Finance local public utilities through the sale of bonds, pledging revenue, general taxation, or otherwise; sell water, electricity, gas, wastewater, or any other service, product, or commodity gathered, produced, or manufactured by the city from the public utilities systems and facilities owned or operated by the city to any consumer within or without the limits of the city; and locate utility plants, distribution facilities, or any appurtenances either within or without Alachua County.
- (4) Enter into agreements with other municipalities either within or without Alachua County, or with governmental units or private utility companies, for selling or buying utility services or other municipal services of any kind, wherever located; sell any surplus of water or electric energy it may have over and above the amount required to supply its own inhabitants and any other services to persons, firms, and corporations, public or private, on such terms and conditions as the commission considers appro-

2.08. Mayor.

The mayor shall be the presiding officer of the commission and shall exercise such powers conferred and implied by, and perform all duties imposed by, this act, the ordinances of the city, and the laws of the state. The mayor shall have a voice and a vote in the proceedings of the commission, but no veto power. The mayor shall be the official head of the city for receipt of service of legal processes, the purposes of military law, and all ceremonial purposes, but shall have no administrative duties. The mayor-commissioner pro tempore shall perform the functions and duties of the office of mayor in the absence of the mayor. (Ord. No. 4053, § 1, 1-23-95)

2.09. Commissioner forfeiture of office and interest in contracts.

Any commissioner including the mayor who ceases to possess any of the qualifications required by this act shall forfeit the office of commissioner. Any contract of the city in which any commissioner has or may have a conflict of interest is voidable by the commission. (Ord. No. 4053, § 1, 1-23-95)

2.10. Interference with charter officers.

Neither the commission nor any commissioner, including the mayor, may dictate the appointment of any person to office or employment by the charter officers nor in any manner interfere with the independence of charter officers in the performance of their duties. Except for the purpose of an inquiry, the commission and its members, including the mayor, must deal with employees of the city solely through their respective charter officers, and neither the commission nor any commissioner, including the mayor, may give orders to any subordinates of the charter officers either publicly or privately. Any commissioner, including the mayor, who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083, Florida Statutes. (Ord. No. 4053, § 1, 1-23-95)

2.11. Oaths of office.

Before taking office for any term each commissioner shall swear or affirm:

"I do solemnly swear (or affirm) that I will support, honor, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State and under the charter of the City of Gainesville; and that I will well and faithfully perform the duties of (title of office) on which I am now about to enter."
(Ord. No. 4053, § 1, 1-23-95)

ARTICLE III. ADMINISTRATION**3.01. Charter officers.**

The charter officers provided for in this article are vested with authority to administer the assigned duties of their offices including the employment and removal of all subordinate employees of their offices. They must make all appointments based on merit and fitness alone and, except as otherwise provided in this act, may remove nonprobationary personnel only for cause, obsolescence of position, budgetary restriction, or for other legitimate reasons. The charter officers may purchase and contract for supplies, materials, equipment, and services required to perform their assigned duties under procedures and limitations prescribed by the commission.

3.02. City manager.

(1) *Appointment; administrative head of municipal government; qualifications; terms; bond.* The commission shall appoint a city manager who shall be the administrative head of the municipal government. The city manager is responsible for the efficient administration of all the departments except for those under the control of other charter officers. The city manager shall be appointed without regard to political beliefs, hold office at the will of the commission, and receive no salary for any portion of a salary period extending beyond termination of office. The city manager

The 2014 Florida Statutes

Title XLV

TORTS

Chapter 768

NEGLIGENCE

[View Entire Chapter](#)

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs. —

(1) In accordance with s. 13, Art. X of the State Constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act. Any such action may be brought in the county where the property in litigation is located or, if the affected agency or subdivision has an office in such county for the transaction of its customary business, where the cause of action accrued. However, any such action against a state university board of trustees shall be brought in the county in which that university's main campus is located or in the county in which the cause of action accrued if the university maintains therein a substantial presence for the transaction of its customary business.

(2) As used in this act, "state agencies or subdivisions" include the executive departments, the Legislature, the judicial branch (including public defenders), and the independent establishments of the state, including state university boards of trustees; counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities, including the Florida Space Authority.

(3) Except for a municipality and the Florida Space Authority, the affected agency or subdivision may, at its discretion, request the assistance of the Department of Financial Services in the consideration, adjustment, and settlement of any claim under this act.

(4) Subject to the provisions of this section, any state agency or subdivision shall have the right to appeal any award, compromise, settlement, or determination to the court of appropriate jurisdiction.

(5) The state and its agencies and subdivisions shall be liable for tort claims in the same manner and to the same extent as a private individual under like circumstances, but liability shall not include punitive damages or interest for the period before judgment. Neither the state nor its agencies or subdivisions shall be liable to pay a claim or a judgment by any one person which exceeds the sum of \$200,000 or any claim or judgment, or portions thereof, which, when totaled with all other claims or judgments paid by the state or its agencies or subdivisions arising out of the same incident or occurrence, exceeds the sum of \$300,000. However, a judgment or judgments may be claimed and rendered in excess of these amounts and may be settled and paid pursuant to this act up to \$200,000 or \$300,000, as the case may be; and that portion of the judgment that exceeds these amounts may be reported to the Legislature, but may be paid in part or in whole only by further act of the Legislature. Notwithstanding the limited waiver of sovereign immunity provided herein, the state or an agency or subdivision thereof may agree, within the limits of insurance coverage provided, to settle a claim made or a judgment rendered against it without further action by the Legislature, but the state or agency or subdivision thereof shall not be deemed to have waived any defense of sovereign immunity or to have increased the limits of its liability as a result of its obtaining insurance coverage for tortious acts in excess of the \$200,000 or \$300,000 waiver provided above. The limitations of liability set forth in this subsection shall apply to the state and its agencies and subdivisions whether or not the state or its agencies or subdivisions possessed sovereign immunity before July 1, 1974.

(6)(a) An action may not be instituted on a claim against the state or one of its agencies or subdivisions unless the claimant presents the claim in writing to the appropriate agency, and also, except as to any claim against a municipality or the Florida Space Authority, presents such claim in writing to the Department of Financial Services, within 3 years after such claim accrues and the Department of Financial Services or the appropriate agency denies the claim in writing; except that, if:

1. Such claim is for contribution pursuant to s. 768.31, it must be so presented within 6 months after the judgment against the tortfeasor seeking contribution has become final by lapse of time for appeal or after appellate review or, if there is no such judgment, within 6 months after the tortfeasor seeking contribution has either discharged the common liability by payment or agreed, while the action is pending against her or him, to discharge the common liability; or

2. Such action is for wrongful death, the claimant must present the claim in writing to the Department of Financial Services within 2 years after the claim accrues.

(b) For purposes of this section, the requirements of notice to the agency and denial of the claim pursuant to paragraph (a) are conditions precedent to maintaining an action but shall not be deemed to be elements of the cause of action and shall not affect the date on which the cause of action accrues.

(c) The claimant shall also provide to the agency the claimant's date and place of birth and social security number if the claimant is an individual, or a federal identification number if the claimant is not an individual. The claimant shall also state the case style,

The 2014 Florida Statutes

Title X

PUBLIC OFFICERS,
EMPLOYEES, AND
RECORDS

Chapter 112

PUBLIC OFFICERS AND
EMPLOYEES: GENERAL
PROVISIONS

[View Entire
Chapter](#)

~~112.3175 Remedies; contracts voidable. —~~

(1) Any contract that has been executed in violation of this part is voidable:

(a) By any party to the contract.

(b) In any circuit court, by any appropriate action, by:

1. The commission.

2. The Attorney General.

3. Any citizen materially affected by the contract and residing in the jurisdiction represented by the officer or agency entering into such contract.

(2) Any contract that has been executed in violation of this part is presumed void with respect to any former employee or former public official of a state agency and is voidable with respect to any private sector third party who employs or retains in any capacity such former agency employee or former public official.

History.—s. 8, ch. 75-208; s. 2, ch. 2001-266.

Title X
PUBLIC OFFICERS,
EMPLOYEES, AND
RECORDS

Chapter 112
PUBLIC OFFICERS AND
EMPLOYEES: GENERAL
PROVISIONS

**[View Entire
Chapter](#)**

PART III

CODE OF ETHICS FOR
PUBLIC OFFICERS AND EMPLOYEES

112.311

Legislative intent and declaration of policy.

112.312

Definitions.

112.3125

Dual public employment.

112.313

Standards of conduct for public officers, employees of agencies, and local government attorneys.

112.3135

Restriction on employment of relatives.

112.3136

Standards of conduct for officers and employees of entities serving as chief administrative officer of political subdivisions.

112.3142

Ethics training for specified constitutional officers and elected municipal officers.

112.31425

Qualified blind trusts.

112.3143

Voting conflicts.

112.3144

Full and public disclosure of financial interests.

112.31445

Electronic filing system; full and public disclosure of financial interests.

112.3145

Disclosure of financial interests and clients represented before agencies.

112.31455

Collection methods for unpaid automatic fines for failure to timely file disclosure of financial interests.

112.3146

Public records.

112.3147

Forms.

112.3148

Reporting and prohibited receipt of gifts by individuals filing full or limited public disclosure of financial interests and by procurement employees.

112.31485

Prohibition on gifts involving political committees.

112.3149

Solicitation and disclosure of honoraria.

112.3151

Extensions of time for filing disclosure.

112.316

Construction.

112.317

Penalties.

112.3173

Felonies involving breach of public trust and other specified offenses by public officers and employees; forfeiture of retirement benefits.

112.3175

Remedies; contracts voidable.

112.3185

Additional standards for state agency employees.

112.3187

Adverse action against employee for disclosing information of specified nature prohibited; employee remedy and relief.

112.3188

Confidentiality of information given to the Chief Inspector General, internal auditors, inspectors general, local chief executive officers, or other appropriate local officials.

112.3189

Investigative procedures upon receipt of whistle-blower information from certain state employees.

112.31895

Investigative procedures in response to prohibited personnel actions.

112.31901

Investigatory records.

112.3191

Short title.

112.320

Commission on Ethics; purpose.

112.321

Membership, terms; travel expenses; staff.

112.3213

Legislative intent and purpose.

112.3215

Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.

112.32151

Requirements for reinstatement of lobbyist registration after felony conviction.

112.32155

Electronic filing of compensation reports and other information.

112.3217

Contingency fees; prohibitions; penalties.

112.322

Duties and powers of commission.

112.3231

Time limitations.

112.3232

Compelled testimony.

112.324

Procedures on complaints of violations and referrals; public records and meeting exemptions.

112.3241

Judicial review.

112.3251

Citizen support and direct-support organizations; standards of conduct.

112.326

Additional requirements by political subdivisions and agencies not prohibited.

112.3261

Lobbying before water management districts; registration and reporting.