

## **ROBERT MULHERE: Guest commentary ... Wrong facts, wrong law equal bad decision**

By Robert Mulhere Chairman of the Board Economic Development Council of Collier County

Thursday, July 7, 2011

On Tuesday, June 30, 2011, Commissioner Georgia Hiller irresponsibly tried to hurt Collier County when she inexplicably confused facts, drew incorrect legal conclusions and assigned motives in her vote against Arthrex's application for economic incentives from the county.

In the debate on Tuesday, Commissioner Hiller pointed to several "facts." Upon further review by the EDC and discussions with Arthrex, the county attorney's office and county staff, here is what we found.

Commissioner Hiller stated that the incentive program requires the company to apply prior to making a decision to expand or locate in Collier County, and that Arthrex made a public statement that the decision had been made. This is false. Arthrex made public statements noting they were "seeking" to expand, but that the decision had not been made. ([http://www.arthrex.com/news/Arthrex-](http://www.arthrex.com/news/Arthrex-Announces-Expansion-in-SW-Florida.cfm)

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Commissioner Hiller stated that the land needed to be owned by Arthrex prior to approving their incentive application. This is false. There is no provision in the ordinance that requires this.

Commissioner Hiller noted that the job creation program was limited to only those jobs whose salaries are above the qualifying average wage. This is false. The definition of average wage in the ordinance specifically includes "all private-sector employees in Collier County, from highest pay rate to lowest pay rate divided by the number of persons employed full-time."

Commissioner Hiller noted that the approval of the application implicates future boards to fund the program. This is false. All programs are subject to funding availability on an annual basis. It is a decision by each board, each year, to appropriate the funds.

Commissioner Hiller stated the ordinance requires that Arthrex indicate which month and year each job will be created and that Arthrex had not done so. This is false. The application clearly states the three phases of job creation, the specific number of jobs and the month and year by which those jobs will be in place.

Commissioner Hiller noted that the Fee Payment Assistance Program is an impact fee waiver. This is false. Impact fees cannot be waived currently in Collier County. Through the Fee Payment Assistance program, the impact fees are paid through the General Fund.

Commissioner Hiller noted there was confusion on the amount of impact fees involved. This is false. No confusion; the Fee Payment Assistance program has a specific and clearly stated calculation that is used to determine an "up to" amount for approval.

Commissioner Hiller noted the application was by Arthrex Inc. and Arthrex Manufacturing Inc. and that cannot be done. This is false. Arthrex Manufacturing Inc. is a wholly owned subsidiary of Arthrex Inc. and therefore can be included on one application.

Commissioner Hiller stated that land costs were not provided. This is false. The application includes both land and building costs for the expansion.

Commissioner Hiller stated that the company did not show the dates of the substantial completion of the each phase of the project. This is false. The application notes the specific dates for the major phases of the job creation, as well as a breakout by year of the land and building, construction/renovations and equipment.

Commissioner Hiller notes that the company did not disclose a pending lawsuit, and this could be reason to deny the application. Although there was an honest omission of litigation, the application states that the incentives "may" be denied. There is no requirement for denial.

Commissioner Hiller noted there was a judgment made against Arthrex. This is false. A jury decision was rendered, but no final judgment. In fact, Arthrex is filing post-trial motions and confidently believes it will prevail, as has previously occurred in other cases Arthrex has won.

Commissioner Hiller also expressed concern that such a judgment would render Arthrex a risk to the county. This is false. Arthrex has zero debt and annual revenues in excess of a billion dollars. The county would have a lien against unencumbered real estate.

Commissioner Hiller stated that the county does not balance its budget. This is false. It is a requirement by law that each year the BCC passes a balanced budget, and as such they do.

Fifteen material errors used to justify her vote against assisting a company trying to add 600 jobs for local residents. We continue to encourage our entire community to support the expansion of Arthrex in Collier County. Let's keep this homegrown company here and move forward with positive steps to improving our economy



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