

REGIONAL PERSPECTIVES

A Quarterly Publication of the North Central Florida Regional Planning Council
Summer 2002



REGIONAL MEETING OF CITY/COUNTY PLANNERS AND ADMINISTRATORS

The Planning Council held its annual meeting of city/county staff in Lake City on Friday, June 21st, to review changes to Florida's growth management requirements made by the



2002 Legislature, and signed into law by Governor Bush. (See related article beginning on Page 2).

Planning Council staff also gave updates to recent initiatives and on-going programs undertaken by the Council in the area of technical assistance, economic development, and hazardous materials management and response.

A total of 26 participants attended the meeting, representing all 11 counties including most of the larger cities located within those counties. The Planning Council began holding these annual meetings in 1988 at the request of several city and county coordinators who wanted an opportunity to discuss among themselves changes in law which affected their responsibilities.

HAZMAT TRAILER GIVEAWAY

On Friday, June 14, the North Central Florida Regional Hazardous Materials Response Team presented the communities of Gainesville, Starke, Lake City and Gilchrist County with hazardous materials response trailers like the one pictured below.

The distribution of trailers was made possible by the Team's successful applications for \$274,240 in grants from the Florida Division of Emergency Management.

This substantial increase in public safety resources could not have come at a more critical time. Our regional hazmat team concept has become the model in Florida for how primarily rural governments can work together to increase community safety from both accidental and deliberate hazardous releases. Having these resources in service will greatly increase the level of protection available to all of our citizens.



SUMMARY OF 2002 GROWTH MANAGEMENT CHANGES

The following summary of the more significant changes of Chapter 2002-296, Laws of Florida, which became effective May 31 of 2002 has been excerpted from an article contained on the Florida Department of Community Affairs website which can be found at: <http://www.dca.state.fl.us/>

Coordinated School Planning - Requires local governments and school boards to enter into an interlocal agreement that addresses school siting, enrollment forecasting, school capacity, infrastructure and safety needs of schools, schools as emergency shelters, and sharing of facilities by adopting parallel requirements in both Chapters 163 and 235, F.S. The interlocal agreements must be reviewed and approved by DCA with the assistance of the Department of Education (DOE). Failure to enter into the interlocal agreement subjects both the local governments and school boards to financial sanctions. Citizen challenge and oversight methods are addressed in the legislation.

The interlocal agreements will be submitted on a schedule adopted by DCA beginning March 1, 2003, and concluding December 1, 2004. Waivers are available for counties that are not experiencing growth in school-age populations. Exemptions are available for similarly situated municipalities.

DCA will send out notices and prepare model agreements. The legislation also provides that a local government may adopt an optional school facilities element, and amends Chapter 235, F.S., to combine the educational plant survey and work program into an educational facilities plan.

Integration of Land Use and Water Supply Planning - Requires local governments to amend their comprehensive plans to integrate better those plans with the water management districts' regional water supply plans. By January 1, 2005, or the local government's EAR due date, the legislation requires local governments to include in their potable water element a 10-year work plan for building water supply facilities that are considered necessary to serve existing and new development and for which the local government is responsible.

Educational Facilities Benefit District - Authorizes the creation of educational facilities benefit districts pursuant to interlocal agreement between a school district and local government. The benefit district is an alternative mechanism for funding the construction and maintenance of educational facilities. Creation of a district requires the consent of the school district, the jurisdictional local government and all property owners. If created, the district will assist in the construction and maintenance of school facilities with a levy of a non-ad valorem assessment. The school board would contribute impact fee revenue generated by development within the benefit district, and one half of the remaining construction costs, up to the cost-

per-student criteria established by the SIT Program. School construction by the benefit district may occur on publicly owned land or on private land leased to the school board.

Interlocal Service Provision and Annexation - Local governments in counties with a population greater than 100,000 are required to prepare an inventory of existing or proposed interlocal service-delivery agreements, and identify deficits or duplication in service delivery. These reports must be submitted to DCA by Jan. 1, 2004, and DCA must coordinate a regional meeting to discuss the reports and potential strategies to remedy deficits or duplication. The legislation also requires the representatives of cities, counties and special districts to provide a recommendation to the Legislature on annexation law changes by February 1, 2003.

Urban Infill Concurrency Waiver - Gives local governments the ability to grant, by comprehensive plan amendment, exemptions from concurrency for non-transportation related infrastructure when public health and safety will not be impaired. (The existing options for local waivers from transportation concurrency were not modified.)

Comprehensive Plan Amendment Streamlining - Streamlines the timing of comprehensive plan amendment review in several ways: Agency review will become a one-step process rather than the current two-steps required; and non-controversial amendments will be cleared through the review process quicker. Provides for

(Growth Management Changes continued from Page 2)

internet notice of Department action to reduce cost of publication with direct courtesy notices to interested citizens.

Citizen Standing - Broadens standing to challenge comprehensive plan amendments to include abutting property owners presently precluded from such challenges.

Developments of Regional Impact - The legislation removes the acreage thresholds from office and retail development, and creates a bright-line threshold for all DRI categories by removing language stating that developments that are 80-99% of the threshold are presumed not to be DRIs. Marinas located in local government jurisdictions that have adopted a boating facility siting plan will be exempt from DRI review. DCA is required, with DEP and the Florida Fish and Wildlife Conservation Commission, to provide guidance in the form of model plans and policies to assist local governments develop boating facility siting plans. Petroleum storage facilities are also exempt if they are consistent with the comprehensive plan or included in an approved port master plan. Redevelopment within the same parcel is exempt from DRI review if the land use remains the same and the intensity and density of the use is unchanged.

Biennial rather than annual reports are now the standard reporting unless annual reporting is required in the development order. DCA is authorized to designate a lead RPC when a proposed DRI is in more than one RPC jurisdiction. The definition of development for the purposes of Chapters 380

and 163, F.S., was amended to include electricity in a list of types of work that are exempt if conducted in the right of way. The legislation also includes vesting and other provisions to address how previously approved but now exempt developments will be treated.

Local Government Comprehensive Planning Certification Program - This program is a successor to the Sustainable Communities Pilot Project. The purpose of the program is to allow responsible local governments the ability to operate with less state and regional oversight of their comprehensive plan process if they meet certain criteria. The local governments must have a demonstrated record of effectively adopting and implementing their comprehensive plan, and a commitment to implement exemplary planning practices. The certification area must be defined, and must be compact, contiguous and appropriate for urban growth and development. Public infrastructure must be available or planned within a 10-year time frame.

The certification is implemented by execution of an agreement with DCA, and the legislation provides for review of the performance of the local government and revocation of the certification under specified conditions. A citizen may initiate a review of the certification, if the local government is not substantially complying with the terms of the agreement. Otherwise, certification expires 10 years after execution of the agreement. The department is limited to approving eight new certifications per year. The department must adopt rules regarding

the processing and review of applications.

Redevelopment in Coastal High Hazard Areas - Local governments with areas within a coastal high hazard area are required to address redevelopment feasibility, taking into account whether any past reduction in land use density impairs the property rights of current residents. Such property rights must be balanced with public safety considerations.

Judicial Review - This portion of the legislation allows a local government to establish a special master process to assist the local governments with challenges to local development orders for consistency with the comprehensive plan. The special master process must follow certain guidelines in the legislation, and the special master submits his or her recommendations to the local government. In reviewing and revising the special master's proposed order, the local government is constrained similar to a state agency receiving a recommended order from an administrative law judge. If a local government establishes such a special master process, it will be the only method to make a comprehensive plan consistency challenge to the local government and will allow any appeals from such decisions to be reviewed by the court through a petition for certiorari. Such a petition is based on the record established in the special master process and the local governments' decision is accorded greater deference. If no such procedure is adopted, circuit court challenges will be allowed by any aggrieved party, and the case

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(Growth Management Changes continued from Page 3)

will be treated as a trial “de novo,” not on the record established below.

Density and Intensity Requirements for Future Land Use Plans - Clarifies that the land use element of the comprehensive plan must include standards for the control and distribution of population densities and building and structure intensities. Intensity and density standards are not required for uses not involving residential or other buildings.

Transportation Related Comprehensive Plan Amendments - Amendments to a comprehensive plan directly related to providing transportation improvements to enhance life safety on Controlled Access Major Arterial Highways identified in the Florida Intrastate Highway System, with a serious traffic fatality problem, are exempt from the twice-a-year limitation on comprehensive plan amendments. Any such amendment shall not include any amendment modifying the designation on a land use map, nor any amendment modifying the allowable densities or intensities of any land.

Construction and Demolition Debris Landfills - Section 163.3194, F.S., regarding the legal status of a comprehensive plan is amended to prevent a local government from denying a development order for a construction and demolition debris landfill when the facility has a DEP permit, and the local government has previously approved a land use change in its comprehensive plan or rezoned the property to allow such a landfill.