

**PINELLAS PLANNING COUNCIL
AGENDA MEMORANDUM**

**PRELIMINARY FOR
PAC REVIEW ONLY**

AGENDA ITEM: IV C.

MEETING DATE: July 16, 2008

SUBJECT:

Legislative Update – 2008 Session

RECOMMENDATION:

Council Receive And Discuss As Determined Appropriate
(Information Only - No Action Required)

BACKGROUND

The Florida Legislature ended its 2008 regular session on Friday, May 2nd. During the session, the House passed a total of 354 bills, the Senate 326, and 269 were passed by both houses. As of June 30th, the Governor had approved 260 bills, vetoed 8, and 39 were pending his decision.

Growth Management

There were only a limited number of passed bills that dealt with land use or growth management issues. The speculation about the potential results of the session put forth in the April 16, 2008, PPC staff legislative update memo were not realized. The memo said that “There is the potential for significant modifications of the state growth management legislation to be enacted during this year’s legislative session. There are at least two themes in the proposed growth management legislation: affordable housing and enhanced public participation in the planning process.” However, there were no “significant” modifications of the Florida growth management laws and no new legislation was passed that addressed the anticipated themes. The theme that did come to the fore was energy.

There are several reasons behind the failure to pass significant growth management legislation. At the start of the session, the Department of Community Affairs developed a number of proposals. Topics included expansion of the state alternative comprehensive plan amendment review process, development of a Citizens Planning Bill of Rights, and development of a transportation mobility fee among others. The majority of those proposals found their way into Senate Bill 474, the main growth management legislation

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COUNTYWIDE PLANNING AUTHORITY ACTION:

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of the session. However, on the last day of the session, a number of harmful floor amendments were proposed which resulted in the bill being killed (died on the calendar). [A number of good proposals died with SB 474. One that local governments should be aware of was the proposed extension from December 2008 to December 2009 of the deadline for adoption of financially feasible capital improvements element.]

At the growth management workshop held on June 16th and 17th, Secretary Pelham and other DCA staff lamented the waste in time and effort put into SB 474 only to have the bill killed by legislators who, notwithstanding their verbal support of growth management, in reality, are working toward its demise. Concern was also expressed about the future of the DCA itself because it will have to undergo a reauthorization process in either 2009 or 2010 at which time it is feared that a strong move will be made to either eliminate the department or reduce its resources to such an extent that the agency will be unable to function.

Notwithstanding the death of SB 474, some growth management proposals found their way into legislation that eventually passed. Most significant were HB 697 dealing with building code standards and HB 7135, the Governor's energy bill.

Governor Crist approved HB 697 on June 17, 2008. In addition to addressing provisions of the Florida Building Code, the bill speaks to the broad issue of energy. As originally proposed, HB 697 contained a proposal that required local governments to adopt an energy element into their comprehensive plans. Passage of that provision would have forced every county and municipality to have individual energy elements which would have been another bad example of the state one-size-fits-all approach to growth management. Fortunately, that provision was killed, but jurisdictions did not come away without other unfunded comprehensive plan mandates.

HB 697 contains provisions that affect a number of elements in local comprehensive plans (see Section. 163.3177, F.S.). The future land use element is to be amended to address "the discouragement of urban sprawl; energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems; (and) greenhouse gas reduction strategies." Conservation elements are to address "factors that affect energy conservation." Land use plan maps or map series are now to include a depiction of "energy conservation." Housing elements are to include goals, objectives, and policies that address "energy efficiency in the design and construction of new housing." Finally, transportation elements are to include "the incorporation of transportation strategies to address reduction in greenhouse gas emissions from the transportation sector."

There are at least three questions that need to be answered with regard to HB 697. First, how is a concept like energy conservation to be shown on a map along with physical features like rivers and wetlands? Second, how are jurisdictions to significantly influence a physical phenomena like greenhouse gas emissions on an individual basis in

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a county like Pinellas when the problem is, at minimum, a regional issue? Third, the meaning of some of the language in the bill is obscure and needs further explanation. For example what are “energy-efficient land use patterns accounting for existing and future electric power generation and transmission systems”?

When these questions were asked at the growth management workshop, DCA staff were unable to answer them. Attendees were told the questions will be answered through amendments to Chapter 9J-5, Florida Administrative Code, but new rule making will take some time to accomplish. Jurisdictions should take note, however, that because HB 697 takes effect on July 1, 2008, attendees were told that land use plan amendment applications submitted after that date will be reviewed by DCA staff taking into account the provisions contained in the legislation even without clear statutory or rule guidance. So, for example, after July 1, 2008, if a local amendment applies for a future land use map change to residential, along with other review criteria, DCA will review the application to determine how it addresses the reduction of greenhouse gasses, energy efficiency in the design and construction of new housing, and the discouragement of urban sprawl.

On June 25th at an energy conference in Miami, the Governor signed into law the 125-page long HB 7135 that contains provisions which may potentially affect local governments. The provisions include adding the topics of energy and global climate change to the *Florida State Comprehensive Plan* (s. 187.201, F.S.). The existing air quality topic is amended by adding a policy to “encourage the development of low-carbon-emitting electric power plants.” The current energy topic is amended by adding text to the goal that addresses the reduction of “atmospheric carbon dioxide by promoting an increased use of renewable energy resources and low-carbon-emitting electric power plants.” A power plant policy is also added to the energy topic. The land use topic contains similar text as the other two, but adds text addressing the requirement for nuclear power plants to meet the state electric power generation needs.

Metropolitan planning organizations are now to include minimization of greenhouse gas emissions in their planning efforts. MPOs are also “encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions.”

The concepts of sustainability and energy conservation/efficiency are found throughout HB 7135. For example, all county, municipal, school district, water management district, state university, community college, and Florida state court building construction commenced after July 1, 2008, “shall be constructed to meet the United States Green Building Council Leadership in Energy and Environmental Design (LEED) rating system...or a nationally recognized, high-performance green building rating system as approved by the Department of Management Services.” The St. Petersburg College is to work with the Florida Community College System and University of Florida “to provide training and educational opportunities that will ensure that green building rating system

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certifying agents...are available to work with the entities specified...as they construct public buildings....”

In order to promote fuel efficiencies, the state will develop or enhance several grant programs for local jurisdictions. See Section 60 of the bill (s. 377.804, F.S.), the Renewable Energy and Energy-Efficient Technologies Grant Program and Section 62, (s. 377.808, F.S.), the Florida Green Government Grants Act. The latter provides that the “Florida Energy and Climate Commission shall use funds specifically appropriated to award grants...to assist local governments...in the development and implementation of programs that achieve green standards....”

The bill also addresses recycling in a new section of state law (s. 403.7032, F.S.) when it says that “By the year 2020, the long-term goal for the recycling efforts of state and local governmental entities, private companies and organizations, and the general public is to reduce the amount of recyclable solid waste disposed of in waste management facilities, landfills, or incineration facilities by a statewide average of at least 75 percent. However, any solid waste used for the production of renewable energy shall count toward the long recycling goal....”

Vetoed Planning-Related Legislation

The Governor vetoed SB 682, the major piece of transportation legislation. The bill would have required local governments to amend their comprehensive plans to address airport land use compatibility. It would have also allowed concurrency backlog authorities to issue bonds as well as to increase the ad valorem funds they could collect. While recognizing that there were many good aspects to the legislation, in his veto message, the Governor said that he is “troubled” with provisions in the legislation dealing with “the selection process for fuel, food, and other service contracts along the Florida Turnpike.”

The Governor also vetoed SB 1706 which proposed an extension of the time limits for developments of regional impact and DRI exemptions. SB 1706 would also have added certain office and research and development of medical technology, biotechnology, or life sciences applications to the list of DRI exemptions if such developments are within counties with a population greater than 1.25 million.

Conclusion

Addressing the new comprehensive plan modifications will require local jurisdiction in Pinellas County to develop “green” goals, objectives, and policies that meet state energy conservation and efficiency review standards. Perhaps the best way to develop them would be through a cooperative effort involving the PAC, the PPC, and, possibly, the Metropolitan Planning Organization.