



MINUTES  
**CITY OF ORMOND BEACH, FLORIDA**  
**GROWTH MANAGEMENT WORKSHOP**  
Tuesday, August 16, 2011  
5:30 PM

Mayor Ed Kelley

Zone 1 – Commissioner James Stowers

Zone 3 – Commissioner Rick Boehm

Zone 2 – Commissioner Troy Kent

Zone 4 – Commissioner Bill Partington

**TRAINING ROOM**

22 South Beach Street, Ormond Beach, Florida 32174

City Clerk's Office: (386) 677-0311

Fax: (386) 676-3330

**1. CALL TO ORDER**

Mayor Ed Kelley called the meeting to order at 5:35 p.m.

Present were Mayor Ed Kelley, Commissioners James Stowers, Troy Kent, Rick Boehm, and Bill Partington, City Attorney Randy Hayes, City Manager Joyce Shanahan, Assistant City Manager Ted MacLeod, and Planning Director Ric Goss.

**2. COMMUNITY PLANNING ACT (HB 7207)**

City Manager Joyce Shanahan explained that the State of Florida had passed legislation that affected growth management, and Planning Director Ric Goss would present the affects on our local planning.

Planning Director Ric Goss stated three bills were passed in 2011; HB 7001 which reauthorized SB 360, which passed in 2009 and regulated the multi-modal strategy; HB 7207 which replaced the 1985 Growth Management bill to become the Community Planning Act; and SB 2156 which created the Department of Economic Opportunity. He explained the impetus behind the Community Planning Act was the economy and the conflict between DCA and the Legislature, particularly over SB 360. He stated people had not been pleased with the growth management issue for decades with the reasons for criticism included creating artificial demand and supply of land use, concurrency created sprawl, and FS 163 and Rule 9J5 were amended so many times they were not intelligible.

Planning Director Ric Goss stated the 2011 Community Planning Act shifted the focus to providing the communities the ability to plan creatively, rather than a complex regulatory process of the 1985 Growth Management Act. Prior to the Community Planning Act, he explained seven public facilities were required to be concurrent with the impacts of development, which included transportation, schools, parks and recreation, water, sanitary sewer, solid waste and storm water. He explained Rule 9J5 under Florida Administrative Code interpreted concurrency was met if improvements were made within three years of the impact. He stated the Community Planning Act had four themes: providing for local responsibility; reduced obstacles to new development; reduced state oversight; and legal and administrative changes.

City Manager Joyce Shanahan stated there had been an issue with Volusia Growth Management Committee (VGMC) relative to burden of proof because VGMC had standing, but she inquired if VGMC would still maintain standing.

Planning Director Ric Goss explained that VGMC was established to assist resolution on a local level, but had somehow given third parties the ability for standing.

Mayor Kelley stated they still had standing, but the burden of proof fell on the challenger, and he stated the costs involved should fall on the challenger.

Planning Director Ric Goss explained the Community Planning Act no longer mandated State concurrency for transportation, schools, and parks and recreation; therefore, the City had the option to retain local concurrency for schools, transportation for state and city roads only, and parks and recreation.

Mr. Goss stated the City was responsible for concurrency on SR40, US1, A1A, Nova Road and all the local roads, with the County having the rest. He stated the City's impact fees were for local roads only, even though the City was responsible for concurrency on state roads, and the minimal impact fee charged did not cover the impact to local roads; the County collected impact fees for state roads, but only spends money on county roads. He explained the mobility fee was to recover some of the impact fees from the County to spend on corridors. Mr. Goss explained the City could proactively withdraw from the Interlocal agreement with the School Board to eliminate concurrency for schools. He stated the impact fees would still be collected to maintain level of service; the same was true of parks and recreations. He stated the City could choose any, all or none of those options; the Commission will need to consider which to keep, because any concurrency not kept would require an amendment to the Comprehensive Plan to remove the concurrency provision, but the amendment would not be subject to state review. He stated the City's transportation concurrency was a hybrid, with SR40, US1, and A1A having no concurrency, because they were TCA's transportation concurrency exception area; Nova Road's level of service (LOS) was B, which was never a problem; and North US1 because that LOS was a C; with the only problem area being on SR40 where Hunter's Ridge was changing a four-lane to a six-lane from Williamson to Timber Creek which would raise the LOS there. He stated without concurrency, Daytona Beach could put their trips

onto SR40. He stated if Daytona Beach rejects concurrency, the City could object at VGOC and at the State level.

Mr. Goss discussed the unusual situation with Hunter's Ridge, in that the impacts were to the City, although the development was in Flagler County.

Mayor Kelley stated that he had been approached by elected officials in Flagler County about the possibility of the City going to the State to have Hunter's Ridge annexed into the City, but it did require approval of the State Legislature. He asked the City Manager to investigate that possibility.

City Manager Joyce Shanahan suggested waiting until the next legislative session, as this session was involved with redistricting. She stated the issue would come to the Commission as a discussion item for direction from the Commission.

Planning Director Goss stated if the City kept concurrency, Level of Service Standards (LOSS) to guide application of facility would require creating amendments to implement the new requirements, which did not need state review, and any new Comp Plan amendments would have to comply with the new concurrency requirements. He discussed the "shoulds" and "shalls" of HB 7207, with the "shoulds" being good planning and the "shalls" being more suggestions. He pointed out that if the LOSS was not impacted, the developer did not have to do anything to cure a deficiency, only to mitigate the developments impact. He explained a deficiency was defined as background traffic, committed traffic and vested traffic. He stated transportation concurrency no longer allowed FDOT to establish LOSS for Strategic Intermodal System (SIS), but the City only had one SIS (SR40 west of I95), for which the impacts required consultation only; the requirement to adopt mobility strategies to support and fund mobility had been removed, but the City had a Mobility Plan and Fee designed to replace the County Impact Fee within TCEA; and deleted concurrency exemptions.

Mayor Kelley remarked it appeared Planning Director Goss was suggesting doing away with County impact fees for residential.

Mr. Goss stated he and City Manager Shanahan had met with the County on the issue when it was required the City pursue the multi-modal strategy, and the County was very receptive to the idea and it was very cutting edge, but the County had not yet given their blessing to the idea.

Planning Director Ric Goss discussed school concurrency which was optional and the removal of the PSFE; required interlocal agreements if school concurrency was elected and permitted portables to be counted as supply for classrooms, instead of only three years.

Planning Director Ric Goss stated HB 7201 encouraged development of techniques that facilitated patterns that support multi-modal solutions; promoted area-wide LOSS for roadway networks; exempted impacts for locally desired

development; and prioritize pedestrian environment and convenient interconnection to transit.

Mr. Goss stated a financial feasibility requirement was no longer needed as part of Capital Improvements Planning; and the annual update was no longer a Comp Plan amendment. He stated there were three types of amendments: an expedited; a state coordinated; and small acreage. He explained the state coordinated were for sector plans for the rural stewardship, nothing that involved the City. He stated he would therefore concentrate on the large scale, which were expedited, and the small-scale. He stated there was no longer a annual limitation of amendments to the Comp Plan; the response deadline and the adoption deadline were increased to 180 days; and any comments were sent directly to the City, not through DCA, with challenges to the adopted amendment must be within 30 days of adoption. He stated adopted amendments were to be submitted only to the Department and those agencies that had commented on the proposed amendment in a timely manner; and the review was limited to adverse impacts on important state resources and facilities. Mr. Goss stated the large scale time line included review within 30 days; adopted review was now 30 days with effectiveness within 31 days; whereby the total review time was 65 days rather than 136. He explained the small scale amendments for 10 acres or less required one public hearing with a maximum of 120 acres per calendar year and no density limitation.

Planning Director Goss reported the changes to the Evaluation Appraisal Report (EAR) now required plan analysis every seven years, which meant the City would address EAR in 2017, at which time, only a letter was required if there were no changes. He stated other changes included: local governments could not allow a referendum for land use amendments; development agreements could be extended to 30 years; the energy efficiency requirements had been deleted; and with regards to third party challenges, local government determination were sustained, if fairly debatable, and DCA could not intervene on citizen initiated petitions.

Planning Director Goss reviewed the reasons the City planned development was to create livable environments, where growth was directed with infrastructure in place when the growth occurred, while preserving natural resources and promoting sustainability, but also, the State required it. He stated HB 7207 did not change the “why,” but changed the “how” to plan by allowing more flexibility at the local level. He summarized the Commission needed to decide as to the elimination of concurrency for schools, parks and recreation, and transportation; as well as, elimination of TCEAs and energy provisions.

After discussion by the Commission, it was determined to maintain concurrency for schools until the Planning Director provided a white paper for the Commission to assist them in their decision, concurrency for transportation, and parks and recreation, as well as, maintaining TCEA for mobility fees, and energy provisions.

### **3. ADJOURNMENT**

The meeting was adjourned at 6:40 p.m.