

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Council Members AGENDA ITEM 4G

From: Staff

Date: September 21, 2007 Council Meeting

Subject: Local Government Comprehensive Plan Review
Draft Amendments to the City of Port St. Lucie Comprehensive Plan
DCA Reference No. 07RWSP1

Introduction

The Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, *Florida Statutes*, requires that Council review local government comprehensive plan amendments prior to their adoption. Under the provisions of this law, the Department of Community Affairs (DCA) prepares an Objections, Recommendations, and Comments (ORC) Report on a proposed amendment only if requested to do so by the local government, the regional planning council, an affected person, or if an ORC Report is otherwise deemed necessary by the DCA. If an ORC Report is to be prepared, then Council must provide DCA with its findings of consistency or inconsistency with the Strategic Regional Policy Plan (SRPP), and provide any comments and recommendations for modification on the proposed amendments within 30 days of its receipt.

Background

The City of Port St. Lucie is located in the southeast portion of St. Lucie County (see Exhibit 1). The City has submitted text amendments to the Infrastructure Element, the Sanitary Sewer Sub-Element, the Potable Water Sub-Element and the Capital Improvements Element. The amendments relate to the adoption of a Water Supply Facility Work Plan. The City has requested a formal review of the proposed amendments.

Evaluation

In 2005, the Florida Legislature passed legislation requiring that local governments which are subject to a regional water supply plan prepare a 10-year water supply facility work plan and adopt it into the Comprehensive Plan by January 12, 2008. The City has prepared a plan and is proposing amendments to the Comprehensive Plan adopting the plan by reference, updating municipal population forecasts for water supply purposes and identifying necessary capital facility improvements.

The Port St. Lucie Water Supply Plan is a planning document for the purpose of quantifying the raw water resources it must secure and develop to ensure adequate supply for future demand. The Plan identifies a “Service Area Boundary” (see Exhibit 2), that extends beyond the Utility Service Area currently identified in the Port St. Lucie Comprehensive Plan (see Exhibit 3). For consistency purposes, the map in the City’s Water Supply Plan should be amended to clarify that the extended boundary is a long-range planning area and not a new, expanded Utility Service Area.

Extrajurisdictional Impacts

According to Chapter 163 of the Florida Statutes and contract agreement between the DCA and the Treasure Coast Regional Planning Council, one of the most important roles played by the regional planning council in reviewing proposed local government comprehensive plan amendments is to identify extrajurisdictional impacts which would be inconsistent with the comprehensive plan of an affected local government.

The service area identified in the Port St. Lucie Water Supply Plan (see Exhibit 2) and generally referenced in the text amendments includes areas currently identified by St. Lucie County (see Exhibit 4) as County Utility Service Areas. The City has an executed agreement with St. Lucie County regarding the provision of water supply and service. Under this agreement, County consent is required to extend utility service into the County utility district. While the context of the Water Supply Plan is for general planning purposes, some aspects of the plan and the proposed supporting policies raise potential conflict with the agreement between the City and County.

For example, the amendments proposed on page 4D-12 identify “projected utility service areas” including:

“Northeast (those unincorporated areas northeast of city limits which receive municipal utility service) and “Western Service Expansion Area” (unincorporated area west of Rangeline Rd. encompassing 49,000 acres).

In addition, the proposed plan amendments reference the City’s new Water Supply Plan which includes a map showing an expanded service area boundary into the County’s current Utility Service Area.

St. Lucie County submitted a written objection (see Attachment A) to the proposed plan amendments as they relate to the executed agreement between the County and City.

Effects on Significant Regional Resources or Facilities

Analysis of the proposed amendments indicates that they would not have adverse effects on significant regional resources or facilities.

Analysis of Consistency with Strategic Regional Policy Plan

Comments

- 1) For consistency purposes with the City's Comprehensive Plan, the new boundary map in the City's Water Supply Plan should be amended to clarify the boundary is a long-range planning area and not a new, expanded Utility Service Area.
- 2) In order to resolve potential conflict between the City and County, any reference to expanded service area boundary or extension of service areas should be removed from the proposed amendments.

Consistency with Strategic Regional Policy Plan

The contract agreement between the DCA and Council requires it to include a determination of consistency with the SRPP as part of the written report to be submitted to the DCA. Unless the changes suggested in its comments above are implemented, Council finds the proposed amendments to be INCONSISTENT with the SRPP.

Recommendation

Council should adopt the above comments and instruct staff to transmit the report to the Department of Community Affairs.

Attachments

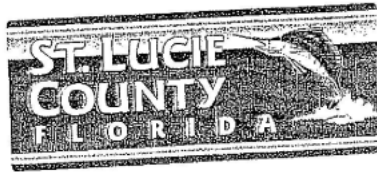
List of Attachments

Attachment

- 1 August 13, 2007 letter from St. Lucie County
- 2 September 20, 2007 letter from St. Lucie County

Attachment A

**BOARD OF
COUNTY
COMMISSIONERS**
August 13, 2007



**COUNTY
ADMINISTRATOR**
DOUGLAS M. ANDERSON

Port St. Lucie City Council
City of Port St. Lucie
121 SW Port St. Lucie Boulevard
Port St. Lucie, Florida 34984

Re: Ordinance 07-119 Amending the City's Comprehensive Plan for Utility Planning Purposes

Dear Council Members:

St. Lucie County hereby objects to the adoption of Ordinance 07-119 Amending the City's Comprehensive Plan for Utility Planning Purposes to the extent the Ordinance purports to extend the City's water and sewer utility service outside of the northern and western boundaries of the City and into the established utility service area of the St. Lucie County Water and Sewer Utility District ("District").

The County sets forth the following written objection to the Ordinance, and requests the City remove the District service area from the City's Ordinance.

1. Pursuant to the Agreement of Transfer by and between St. Lucie County and City of Port St. Lucie, dated June 28, 1994, in which the County transferred the former GDU utility system to the City ("GDU Transfer Agreement"), the City and the County agreed to utility service area boundaries. Pursuant to the definition of "Service Areas" contained in Section 1.1 of the GDU Transfer Agreement, the City agreed that before water and sewer service was extended beyond the service area, the consent of the County would have to be obtained. The GDU Transfer Agreement, Exhibit "L" sets forth the limits of the City's utility service area as Range Line Road to the west and Midway Road to the north ("City Utility Boundary"). Accordingly, as the Ordinance purports to extend the City's utility service area beyond the contractually obligated Utility Boundary, and the City did not obtain the County's consent to such purported extension, the Ordinance would breach the City's contractual agreement under the GDU Transfer Agreement and is a nullity.

2. Pursuant to County Ordinance 04-023, adopted June 15, 2004, the County established the St. Lucie County Water and Sewer Utility District pursuant to Chapter 152, Part II, Florida Statutes (Section 153.50 et seq.) ("Act"). Pursuant to Section 153.86 of the Act, the City is statutorily precluded from extending any of its utilities facilities into the District utility service area without the consent of the County Commission sitting as the District Board:

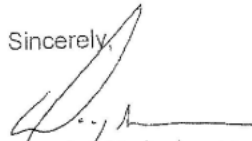
JOSEPH E. SMITH, District No. 1 • DOUG COWARD, District No. 2 • PAULA A. LEWIS, District No. 3 • CHARLES GRANDE, District No. 4 • CHRIS CRAFT, District No. 5
County Administrator • Douglas M. Anderson
2300 Virginia Avenue • Fort Pierce, FL 34982-5652 • Phone (772) 462-1450 • TOD (772) 462-1428
FAX (772) 462-1648 • email: douga@co.st-lucie.fl.us

153.86 District approval of construction of water and sewage facilities. - No sewage disposal plant or other facilities for the collection and treatment of sewage or any water treatment plant or other facilities for the supply and distribution of water, shall be constructed within the district unless the district board shall give its consent thereto and approve the plans and specifications therefore; subject, however, to the terms and provisions of any resolution, authorizing any bonds and agreements with bondholders.

Pursuant to Section 153.88, Florida Statutes, the provisions of the Act, including Section 153.86 above, "shall not be subject to the limitations or provisions of any other law or laws except as expressly provided herein." Accordingly, the provisions of Chapter 180 do not exempt the City from compliance with the consent requirements of Section 153.86, Florida Statutes. As the City has not obtained the consent of the County to an extension of the City's utility service area into the County Utility District service area, the City's Ordinance violates the provisions of Section 153.86, Florida Statutes, and is a nullity.

We would like to work with the City to propose alternatives to resolve these issues.

Sincerely,



Douglas M. Anderson
County Administrator

Copy to: Board of County Commissioners
County Attorney
Utility Services Director

BOARD OF
COUNTY
COMMISSIONERS



COUNTY
ADMINISTRATOR
DOUGLAS M. ANDERSON

September 20, 2007

Mr. Michael Busha
Executive Director
Treasure Coast Regional Planning Council
301 East Ocean Boulevard, Suite 300
Stuart, Florida 34994

RECEIVED
SEP 20 2007
TREASURE COAST
REGIONAL PLANNING COUNCIL

RE: Comprehensive Plan Amendment

Dear Mr. Busha:

The Local Government Comprehensive Planning and Land Development Regulation Act ("Act") provides the following two requirements that are pertinent to the City of Port St. Lucie ("City") proposed Comprehensive Plan Amendment before the Treasure Coast Regional Planning Council ("RPC"):

Section 163.3177 6(c) a general utility element - "Local governments ... are encouraged to cooperatively plan for the development of multijurisdictional water supply facilities that are sufficient to meet projected demands for established planning periods, including the development of alternative water sources to supplement traditional sources of groundwater and surface water supplies."

Section 163.3177 4(a) "Coordination of the local comprehensive plan with the comprehensive plans of ...the county...shall be a major objective of the local comprehensive planning process. To that end, in the preparation of a comprehensive plan or element thereof, the governing body shall include a specific policy statement indicating the relationship of the proposed development of the area to the comprehensive plans of ... the county... as the case may require and as such adopted plans or plan may exist."

The City's proposed Comprehensive Plan Amendment violates these two Act requirements as the City has not cooperatively planned with the County regarding utility service to an area of the unincorporated County within the County's utility service area, referred to in the City's proposed amendment as the "Western Service Expansion Area", nor

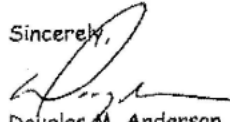
Mr. Michael Busha
September 20, 2007
Page 2

included a policy statement indicating the relationship of the "Western Service Expansion Area" to the County's existing comprehensive plan. As set forth in the County letter submitted to Port St. Lucie, attached as Attachment 1 to the RPC Staff Memorandum to Council members for the September 21, 2007, RPC Meeting, the "Western Service Expansion Area" is within the County's utility planning and service area and the City has no right to plan for or provide utility service in that area without the prior consent of the County, which has not be granted.

The RPC staff has recommended that the City's proposed amendment be approved as consistent with the Strategic Regional Policy Plan subject to the City removing "any reference to expanded service area boundary or extension of service areas." The County concurs with RPC staff recommendation on this point, but would request the RPC to further require the City to remove any reference to the "Western Service Expansion Area" as a further condition to receipt of consistency approval of the City amendment.

Until such time as the City complies with the cited provisions of the Act set forth above and cooperates with the County with respect to planning in the unincorporated County area the City has described as the "Western Service Expansion Area" and coordinates its planning efforts with the County's existing plan for this area of County jurisdiction, the RPC should not determine consistency for the element of the City amendment addressing the "Western Service Expansion Area."

Sincerely,



Douglas M. Anderson
County Administrator

DMA/cdf
Copy to: County Attorney
Utility Services Director

List of Exhibits

Exhibit	Amendment
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- | | |
|---|--|
| 1 | General Location Map |
| 2 | Pt. St. Lucie Water Supply Facility Work Plan - Service Area and Development Areas |
| 3 | Utility Service Area – Port St. Lucie |
| 4 | Utility Service Areas – St. Lucie County |

**Exhibit 1
General Location Map
City of Port St. Lucie**

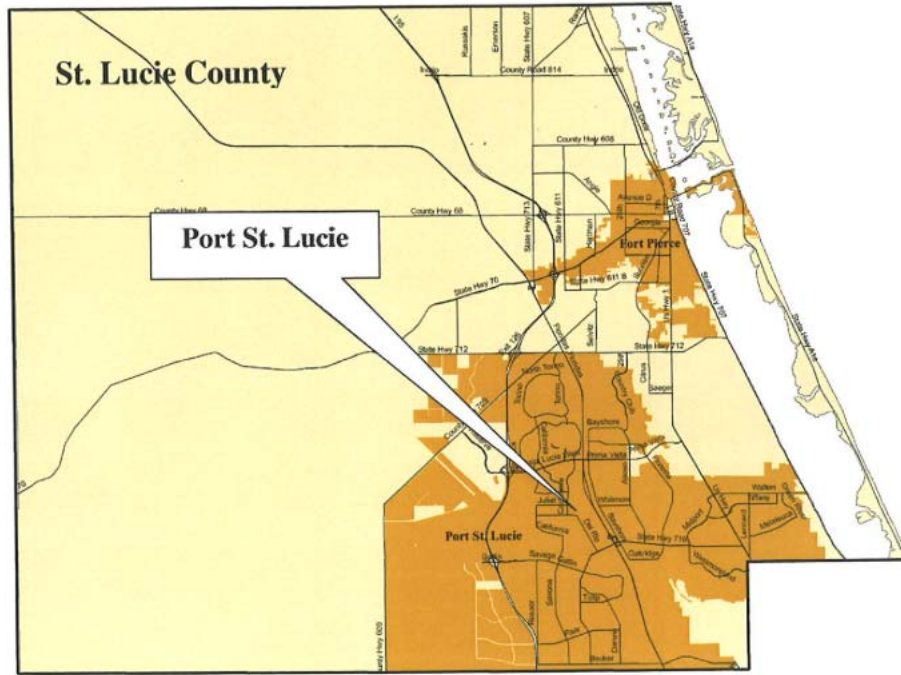


Exhibit 2 Service Area and Development Areas

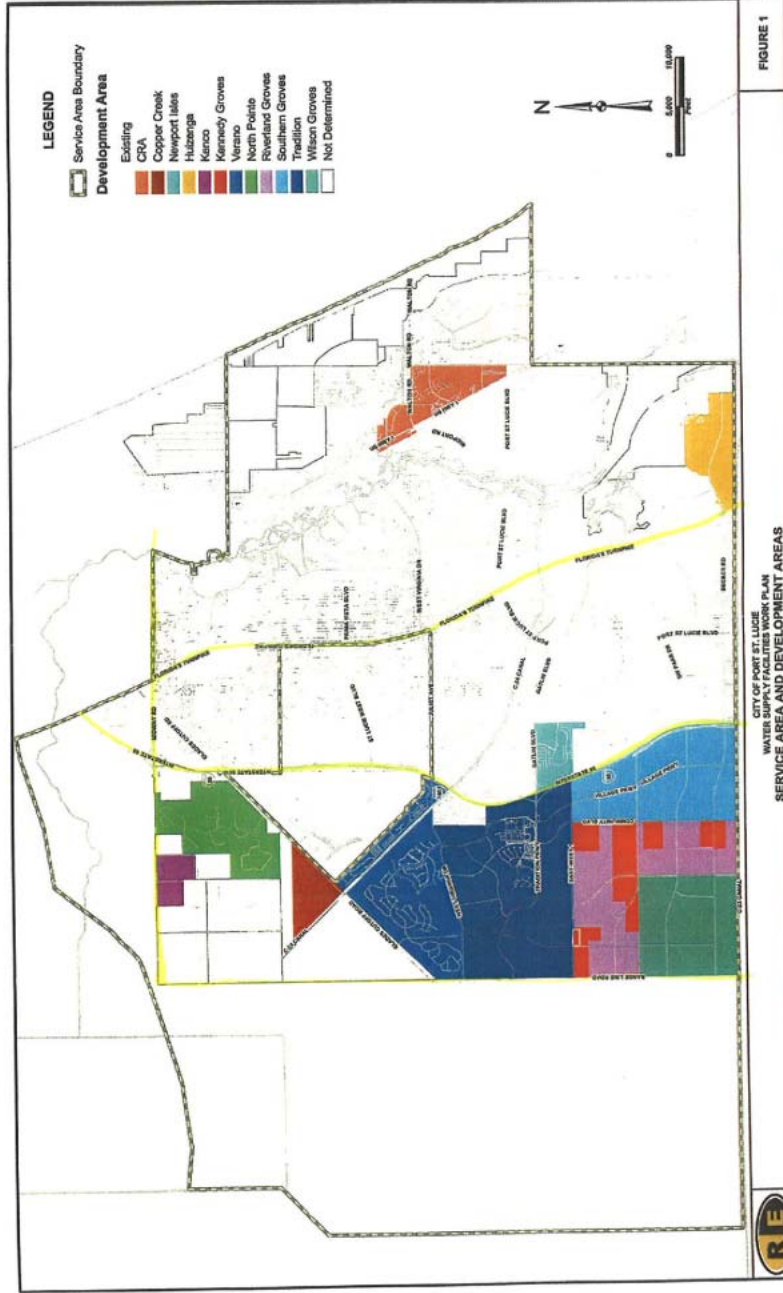


Exhibit 4 Utility Service Areas – St. Lucie County

