

EXECUTIVE SUMMARY

Recommendation to review and adopt Proposed Amendments to the Collier County Growth Management Plan, Ordinance 89-05, as Amended, based upon the Collier County Evaluation and Appraisal Report adopted in 2011 and the Florida Department of Economic Opportunity Objections, Recommendations and Comments Report on these Amendments, and to Transmit the Amendments to the Florida Department of Economic Opportunity.

OBJECTIVE: To have the Board of County Commissioners (Board) review and adopt the 2011 Evaluation and Appraisal Report (EAR)-based amendments to the Collier County Growth Management Plan (GMP) and approve their transmittal to the Florida Department of Economic Opportunity (DEO).

CONSIDERATIONS:

Background

Chapter 163, Part II, *Florida Statutes*, also known as the “Community Planning Act” (prev., the “Local Government Comprehensive Planning Act”), requires all local governments within the State of Florida to maintain comprehensive planning programs based upon an adopted local government comprehensive plan. As part of this process, the local government must provide amendments to the local comprehensive plan a/k/a Growth Management Plan (GMP) guided by Evaluation & Appraisal Report (EAR) recommendations.

The periodic amendment process, which occurs once every seven years, as described in Chapter 163.3191, F.S., is a two-phase process. It began with the preparation, by the local government, of an Evaluation & Appraisal Report (EAR). The EAR evaluated the performance of the various Elements of the local government comprehensive plan since the previous EAR-based amendment process. It assessed the successes and failures of the various Goals, Objectives, Policies, and programs included within the local comprehensive plan, and provided recommendations for necessary changes. Additionally, the EAR is the primary means by which the local plan can respond to changes in federal, state or regional planning requirements. The recommendations contained in the EAR became the basis of proposed amendments to the local government comprehensive plan, the second phase in the amendment process.

Collier County’s first EAR was adopted by the Board of County Commissioners on July 16, 1996. The subsequent EAR-based amendments were adopted on October 18, 1997. The second EAR, which reviewed the performance of Collier County’s Growth Management Plan (GMP) from October 1997 to July 1, 2003, was adopted on July 27, 2004. The Florida Department of Community Affairs (DCA), which had oversight for comprehensive plans, amendments, and EARs for all local governments, found the 2004 EAR sufficient on November 15, 2004. The third EAR, which reviewed the performance of the GMP from July 2004 through 2010, was adopted by the Board on January 31, 2011. The DCA found the 2011 EAR sufficient on April 12, 2011.

The amendments that are the subject of this hearing are limited in scope primarily to those recommended in the 2011 EAR. Though not necessarily recommended by specific reference in the EAR, general updating and “housecleaning” amendments are allowed as part of this amendment process; these include updating Ordinance numbers, revising/correcting government agency names, word-smithing, reformatting, re-arranging the order of Districts/Subdistricts, and so forth.

Transmittal hearings on these amendments were held on December 7, 2011 with the Environmental Advisory Council (EAC); January 26, February 16, March 1 and 6, 2012 with the Collier County Planning Commission (CCPC), and to the Board on April 24, 2012. The requirement to transmit GMP amendments is a simple majority whereas the requirement to adopt is supermajority (minimum of four affirmative votes).

Florida Department of Economic Opportunity ORC Report/Staff Response

After review of Transmitted GMP amendments the Florida Department of Economic Opportunity (DEO), which replaced the DCA as the official stat Planning agency, rendered an Objections, Recommendations and Comments (ORC) Report. Within the ORC Report, only Objections can form the basis of a non-compliance determination, unless the adopted amendments vary significantly from those transmitted. In their July 6, 2012 ORC Report, the DEO summarized,

“[t]he Agency does not identify any objections. However, the... Report outlines a number of technical assistance comments consistent with Section 163.3168(3), F.S. The Agency’s technical assistance comments will not form the basis of a challenge.”

A significant portion of changes made in response to DEO and external agency Comments serve to technically improve GMP elements. Due to the non-technical nature of many of the changes, additional data and analysis is not deemed necessary to support them. In the few instances where support documentation is decidedly needed, it is identified in the County Response to the ORC Report and attached thereto.

The DEO’s entire ORC Report is attached to this Executive Summary. Agencies who provided comments in addition to those from the DEO are the South Florida Water Management District (SFWMD) and the State of Florida Department of Transportation (FDOT). The full Collier County Response to the ORC Report is also attached to this Executive Summary. In the ORC Response document, where a Policy, Objective or other provision is changed in response to a Comment, the proposed revision is provided – using underline/strike-through format. With the exception of the one minor non-ORC Report related amendment noted below, the focus of this Executive Summary and hearing is only on the County responses - and Element revisions, where appropriate - to the ORC Report. Therefore, for purposes of this hearing, this County Response to the ORC Report is the key document in the Executive Summary packet.

The ORC Report contained only Comments pertaining to the following Elements/Sub-Elements: Capital Improvement Element (CIE), Future Land Use Element (FLUE), Transportation Element, and Drainage (Stormwater Management) Sub-Element. No Objections or Recommendations were provided by the DEO or the outside review agencies.

Element Changes Not Related to ORC Report

Generally, it is preferable not to propose Element revisions at the Adoption hearings that are not in response to the ORC Report so as not to create a potential new statutory compliance issue. However, such amendments *are* allowed, though should be carefully considered.

Upon careful consideration, the County is proposing minor changes that are not expected to create compliance issues. The proposed Element changes that follow are not in response to the ORC Report.

Changes made to GMP provisions shown to the DEO in transmitted EAR-based GMPAs that are in addition to/or modified since Transmittal include additional word-smithing to Transportation Element Policy 3.5, and Conservation and Coastal Management Element (CCME) Objective 2.1.a & Drainage Sub-Element Policy 6.2 to properly identify an environmental resource permit application document.

Changes made to GMP provisions not previously shown to the DEO in transmitted EAR-based GMPAs that are in addition to/or modified since Transmittal include CCME Objective 2.1 and numerous Policies following the 2012 anticipated enactment of HB 503 [concerning environmental regulation and development permit application requirements and procedures], and FLUE mapping corrections to properly identify certain County and State Parks and Preserves.

FISCAL IMPACT: There are fiscal impacts to Collier County as a result of some of these amendments to the Growth Management Plan. Some GMP amendments will require the establishment of implementing provisions in the Collier County Land Development Code (LDC) such as, preservation strategies for recreational and commercial working waterfronts in the CCME. It is anticipated these LDC amendments will be drafted by staff.

GROWTH MANAGEMENT IMPACT: This is an Adoption public hearing for amendments to the Collier County Growth Management Plan based upon the 2011 EAR. The Florida Department of Economic Opportunity (DEO) will have 45 days to review the adopted Plan amendments for compliance with Chapter 163, F.S., and to issue a “Notice of Intent” to find the amendments “in compliance” or “not in compliance.” If determined to be “in compliance”, and timely challenge to that determination is not filed by an affected party within 21 days, then the amendments will become effective.

LEGAL CONSIDERATIONS: This item is ready for Board consideration and approval. Pursuant to Resolution No. 97-431, an affirmative vote of four is needed for Board approval. *[HFAC]*

RECOMMENDATIONS:

Environmental Advisory Council (EAC)

The EAC held Adoption hearings on the Conservation and Coastal Management Element, Natural Groundwater Aquifer Recharge Sub-Element, and Drainage (Stormwater Management) Sub-Element on September 5, 2012. By a unanimous vote, the EAC recommended that the CCPC and Board adopt the proposed 2011 EAR-based amendments, with Drainage Sub-Element Policies 6.2 and 6.3, and CCME Objective 2.1.a modified further to better reflect the County’s stormwater management practices.

Collier County Planning Commission (CCPC)

The Collier County Planning Commission held their required Adoption public hearing on October 30, 2012. Staff introduced additional modifications to Transportation Element Policy 3.5, CCME Objective 2.1.a, and Drainage Sub-Element Policy 6.2. Staff also explained how newly-introduced text changes to the Capital Improvement Element (CIE) – not previously seen during EAR considerations – are associated with the adoption of HB 7207. Specifically, proposed CIE language was initially part of the 2012 AUIR-CIE update and amendment. Post HB 7207, the CIE’s 5-Year Schedule of Capital Improvements is adopted by (non-GMP amendment) Ordinance. Text changes to the CIE remain a GMP amendment, technically – so these text changes to the CIE are moved into EAR-based Adoption amendments.

By a unanimous vote, the CCPC recommended that the Board adopt the proposed 2011 EAR-based amendments, including all staff changes presented at their hearing as noted above.

The CCPC recommendations are reflected in the Ordinance Exhibits and in the “Collier County Response to the ORC Report”.

Comprehensive Planning Staff

Staff concurs with the CCPC recommendations.

REQUESTED ACTION: That the Board of County Commissioners adopt the 2011 EAR-based Growth Management Plan amendments to Elements of the Collier County Growth Management Plan, including changes incorporated since Transmittal hearings, as noted in the accompanying “Collier County Response to the ORC Report”, and transmit the amendments to the Florida Department of Economic Opportunity and appropriate outside review agencies.

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Attachments: 1) Collier County Response to the ORC Report (with attachments); 2) Adoption Ordinances with Exhibit “A”s for each of the Elements in the GMP; 3) DEO July 6, 2012 ORC Report; 4) Adoption Staff Report to the October 30, 2012 CCPC; 5) Adoption Staff Report to the September 5, 2012 EAC; 6) BCC and CCPC Adoption Hearing Legal Advertisements