

INDIAN RIVER COUNTY, FLORIDA

MEMORANDUM

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**TO:** Jason E. Brown, County Administrator

**Through:** Stan Boling, AICP, Community Development Director

**FROM:** Sasan Rohani, AICP, Chief, Long-Range Planning *S.A.*

**DATE:** February 23, 2017

**RE:** Consideration of the County's Comprehensive Plan Update and Evaluation and Appraisal Report (EAR) Options

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It is requested that the following information be given formal consideration by the Board of County Commissioners at its regular meeting on March 7, 2017.

**DESCRIPTION and CONDITIONS:**

According to state law that was in effect until June 2, 2011, each local government in the state had to periodically prepare an Evaluation and Appraisal Report (EAR) to assess the success or failure of its comprehensive plan, address changed conditions, and identify needed revisions to its comprehensive plan. Based on its EAR assessment, a local government's comprehensive plan had to then be updated and revised to ensure that the plan continued to provide sufficient guidance for the local government to make appropriate land use and land development decisions.

Consistent with the former State Law, in 1996 the county completed its first EAR. That Comprehensive Plan Evaluation and Appraisal Report (EAR) was adopted by the Board of County Commissioners (Board), submitted to the State of Florida Department of Community Affairs (DCA), and found by DCA to be sufficient. In 1998, the Board of County Commissioners amended the County's Comprehensive Plan to incorporate the findings and recommendations of the 1996 EAR.

In February 2006, again under the pre-2011 state requirements, staff started work on preparing the county's second Evaluation and Appraisal Report. According to the state rules then in effect, Indian River County had to submit its adopted EAR to the state by December 1, 2008. On November 18, 2008, the Board of County Commissioners approved the County's second EAR. That EAR was submitted to the state and found sufficient on February 25, 2009. On October 12, 2010, the Board of County Commissioners amended the Comprehensive Plan to incorporate the findings and recommendations of the 2008 EAR.

In 2011, the state made several "streamlining" changes to the process for review and approval of comprehensive plan amendments and evaluation processes, including EAR requirements. At that time, the state also replaced DCA with the DEO (Department of

Economic Opportunity) which contains a community planning section. The newer evaluation and appraisal requirements are contained in Florida Statutes 163.3191 (see attachment #1). Effective June 2, 2011, local governments now have more discretion in determining whether they need to conduct an update to their comprehensive plan and how such updates may be conducted. As such, local governments no longer need to submit evaluation and appraisal reports to the state DEO for a sufficiency determination. Instead, each local government must comply with the following new evaluation and appraisal provisions:

1. At least every seven years, determine whether or not the comprehensive plan needs to be amended to reflect changes made to state requirements since the last time the comprehensive plan was updated. Local governments must notify the state land planning agency by letter of this determination.
2. If the local government determines amendments to the comprehensive plan are necessary, the local government must prepare and transmit the necessary amendments to the state within one year of such determination.
3. Any local government failing to timely submit a notification letter or make the necessary amendments within one year of notification may not amend its comprehensive plan until it complies with the notification and/or amendments requirements.

For item #1 above, Indian River County's deadline is October 1, 2017. By that date, the County must submit a notification letter to DEO indicating whether or not the County's Comprehensive Plan needs to be amended to reflect changes in state requirements since the last time the comprehensive plan was updated.

At this time, the Board needs to determine whether or not the County needs to revise its comprehensive plan to comply with state requirements and notify the state land planning agency (DEO) of its determination.

#### **ANALYSIS:**

Per FS 163.3191 requirements, the County does not need to prepare an Evaluation and Appraisal Report (EAR) as was done in 1996 and 2008. However, the Board of County Commissioners must determine whether the need exists to amend the comprehensive plan to reflect changes in state requirements enacted since the last time the comprehensive plan was updated. If the Board decides that the County's Comprehensive Plan must be updated, the updated plan must be submitted to the state by October 1, 2018.

In determining whether the need exists to amend the Comprehensive Plan, the County needs to review the goals, objectives, and policies of the Comprehensive Plan elements and sub-elements, since those sections constitute the "action plan" components of the plan. Since the last EAR based amendments were adopted in 2010, various sections of the County's Comprehensive Plan have been revised and updated to ensure consistency with the state requirements and to reflect changes in local conditions. In fact, on August 16, 2016 the Board adopted a broad set of Comprehensive Plan update amendments to numerous plan elements (see attachment #2). Recently, Community Development staff, in coordination with staff from various departments and divisions, reviewed the Comprehensive Plan goals, objectives, and policies and determined that the plan meets

existing state requirements and is not required to be updated at this time. Staff's finding is that the County's Comprehensive Plan is currently in good shape, having gone through rigorous evaluations and through adjustments in 1996-1998 and 2008-2010, and was amended several times since then with the last major update being completed in 2016.

Although there is no need to evaluate and update the Comprehensive Plan at this time, staff believes that a thorough evaluation and appraisal process followed by an amendment update will be needed in several years when data from the 2020 U.S. Census are available. Those data will be used to update the conditions, data, and analysis sections of various plan elements and sub-elements and will arrive at a time (perhaps 2022) when needs, trends and opportunities relevant to various comprehensive plan components should be re-evaluated. Thereafter, the County could conduct a major evaluation and appraisal process every ten years, when "fresh" and up-to-date data are available from each subsequent decennial U.S. Census. Meanwhile, staff will continue to propose and process minor changes as needed to keep the County's Comprehensive Plan up to date and in compliance with state requirements, and will continue to process individual amendment requests and any County initiatives.

**RECOMMENDATION:**

Staff recommends that the Board of County Commissioners direct staff to submit a notification letter to the state indicating that the Board has determined that it is not necessary to amend the County's Comprehensive Plan at this time to reflect changes in state requirements since the last update of the Comprehensive Plan.

**ATTACHMENTS:**

1. Section 163.3191, Florida Statutes
2. Minutes from 2-16-16 BCC meeting

F:\Community Development\EAR\2017 EAR\EAR based amendment-BCC 2017.doc

ATTACHMENT 1

## The 2016 Florida Statutes

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Title XI  
COUNTY ORGANIZATION AND INTERGOVERNMENTAL  
RELATIONS

Chapter 163  
INTERGOVERNMENTAL  
PROGRAMS

[View Entire  
Chapter](#)

### 163.3191 Evaluation and appraisal of comprehensive plan.—

(1) At least once every 7 years, each local government shall evaluate its comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements in this part since the last update of the comprehensive plan, and notify the state land planning agency as to its determination.

(2) If the local government determines amendments to its comprehensive plan are necessary to reflect changes in state requirements, the local government shall prepare and transmit within 1 year such plan amendment or amendments for review pursuant to s. [163.3184](#).

(3) Local governments are encouraged to comprehensively evaluate and, as necessary, update comprehensive plans to reflect changes in local conditions. Plan amendments transmitted pursuant to this section shall be reviewed pursuant to s. [163.3184\(4\)](#).

(4) If a local government fails to submit its letter prescribed by subsection (1) or update its plan pursuant to subsection (2), it may not amend its comprehensive plan until such time as it complies with this section.

(5) The state land planning agency may not adopt rules to implement this section, other than procedural rules or a schedule indicating when local governments must comply with the requirements of this section.

History.—s. 11, ch. 75-257; s. 10, ch. 85-55; s. 11, ch. 86-191; s. 10, ch. 92-129; s. 13, ch. 93-206; s. 6, ch. 95-322; s. 29, ch. 96-410; s. 5, ch. 96-416; s. 4, ch. 98-146; ss. 6, 14, ch. 98-176; s. 5, ch. 98-258; s. 17, ch. 2000-158; s. 9, ch. 2002-296; s. 905, ch. 2002-387; s. 4, ch. 2004-230; s. 8, ch. 2005-290; s. 12, ch. 2005-291; s. 13, ch. 2007-196; s. 5, ch. 2007-198; s. 4, ch. 2007-204; s. 5, ch. 2010-205; s. 20, ch. 2011-139; s. 8, ch. 2012-96; s. 9, ch. 2012-99.

ATTACHMENT 1

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the Risk Manager has received and approved the required insurance; and authorized the Purchasing Manager to renew any subsequent extensions authorized under the Contract if in the best interest of the County.

9. CONSTITUTIONAL OFFICERS and GOVERNMENTAL AGENCIES

10:44  
a.m.

A. Indian River County Sheriff Deryl Loar

Request for Transfer of \$8,595.28 Forfeiture Proceeds to Substance Awareness Center Pursuant to Florida State Statute 932.7055  
(letter dated August 4, 2016) 551

Sheriff Deryl Loar requested authorization to transfer \$8,595.28 of the acquired forfeiture proceeds of real or personal property to the Substance Awareness Center.

ON MOTION by Vice Chairman Flescher, SECONDED by Commissioner Davis, the Board unanimously approved the transfer of \$8,595.28 of acquired forfeiture proceeds to the Substance Awareness Center.

The Chairman called for a break at 10:45 a.m., and reconvened the meeting at 10:57 a.m., with all members present.

10. PUBLIC ITEMS

10:57  
a.m.

A. PUBLIC HEARINGS

1. County Initiated Request to Amend (Update) the Text of Several Elements of the County's Comprehensive Plan  
(memorandum dated August 8, 2016) 552-615

Legislative

PROOF OF PUBLICATION OF ADVERTISEMENT FOR HEARING IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

Community Development Director Stan Boling provided background and outlined the proposed text amendments to the County's Comprehensive Plan.

Discussion ensued regarding Fellsmere's annexation amendment process and infrastructure impacts.

The Chairman opened the Public Hearing.

Bob Johnson, Coral Wind Subdivision, sought and received information pertaining to Planned Developments (PD's).

There being no other speakers, the Chairman closed the Public Hearing.

ON MOTION by Commissioner O'Bryan, SECONDED by Vice Chairman Flescher, the Board unanimously adopted Ordinance 2016-008, amending the text of the future Land Use, Transportation, Economic Development, and Recreation and Open Space Elements, and Solid Waste Sub-Element of the County's Comprehensive Plan; and providing codification, severability, and effective date.

**B. PUBLIC DISCUSSION ITEMS**

(As a general rule, public discussion items should be limited to matters on which the commission may take action.)

11:17  
a.m.

1. Request to Speak from Keith D. Kite Regarding Hotels

616-617

Keith Kite, 1045 Winding River Road, Vero Beach, highlighted some factors that he thought could facilitate hotel growth in Indian River County. He urged the Board to stay active in business sustainability, tourism marketing, and the local environment.

Discussions ensued as the Board posed questions to Mr. Kite.

Allison McNeal, Indian River County Chamber of Commerce Tourism Director, said she would provide the Board with a Countywide Five-Year Monthly Occupancy Rate Comparison Report.

12:00  
p.m.

2. Request to Speak from Gifford Economic Development Council Regarding Gifford Follow-Up

618

Wanda Scott, 4306 26<sup>th</sup> Avenue, representing the Gifford Economics Development Council, discussed some of the factors that she believed were impacting the economic stability of Gifford.

Chairman Solari asked staff to provide a report on which expenditures have been made for the Gifford area.

Administrator Brown clarified the current budget amounts for the Municipal Service Benefit Unit (MSBU), and spoke about the pending project for drainage improvements.

**C. PUBLIC NOTICE ITEMS**

None

**11. COUNTY ADMINISTRATOR MATTERS**

12:23  
p.m.

- A. Department Head Appointment  
(memorandum dated August 9, 2016)

619