

**INDIAN RIVER COUNTY, FLORIDA**

**M E M O R A N D U M**

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

**THROUGH:** Stan Boling, AICP; Community Development Director

**THROUGH:** Sasan Rohani, AICP  
Chief, Long-Range Planning

**FROM:** Bill Schutt, AICP  
Senior Economic Development Planner, Long Range Planning

**DATE:** May 11, 2018

**SUBJECT:** FINAL PUBLIC HEARING: County Initiated Request to Amend (Update) the Text of the Sanitary Sewer Sub-Element for Septic to Sewer Conversion and the Associated Text of the Future Land Use Element of the County's Comprehensive Plan

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It is requested that the data herein presented be given formal consideration by the Board of County Commissioners at its regular meeting of June 5, 2018.

**DESCRIPTION AND CONDITIONS**

This is a county initiated request to amend the text of the Sanitary Sewer Sub-Element and Future Land Use Element of the county's comprehensive plan. The purpose of this amendment is to recognize changed conditions to update information and incorporate recent policy direction from the Board of County Commissioners regarding conversion of septic systems to public sewer service.

With respect to the Sanitary Sewer Sub-Element, proposed revisions were initiated based on direction received at the July 18, 2017 Board of County Commissioners (Board) meeting (Attachment #2).

**Comprehensive Plan Amendment Review Procedures**

Although the number of plan amendments that the county may consider is not limited, the County's Comprehensive Plan regulates the frequency with which the county may amend its comprehensive plan. According to the county's Comprehensive Plan, plan amendments are limited to four times per calendar year. For that reason, the county accepts general plan amendment applications only during the "window" months of January, April, July and October. In this case, the subject application for revisions to the three comprehensive plan elements/sub-elements was submitted during the January 2018 window.

The procedures for reviewing a comprehensive plan amendment involve several steps. First, the Planning and Zoning Commission (PZC), as the Local Planning Agency, conducts a public hearing

to review the request. At the public hearing, the Commission makes a recommendation to the Board of County Commissioners (Board) to approve, approve with modifications, or deny the requested amendment.

Following PZC action, the Board conducts two public hearings. The first of those hearings is for a preliminary decision on the amendment request. At that hearing, the Board determines whether or not the amendment warrants transmittal to state and regional review agencies for their consideration.

If the amendment is transmitted, state and regional review agencies review the amendment as it pertains to each agency's area of focus. Review agencies then send their comments directly to the county and the State Land Planning Agency. Subsequent to staff and/or the applicant addressing any issues raised in the review agency comments, a second and final Board public hearing is conducted. If the Board approves the request at the final hearing, then the approved amendment is submitted to the State Land Planning Agency and to the other review agencies. The amendment becomes effective 31 days after the State Land Planning Agency determines that the approved amendment submittal is complete, unless a challenge is filed by an affected party.

### **PZC Action**

At its regular meeting of February 8, 2018, the Planning & Zoning Commission (PZC) conducted a public hearing, considered the subject amendment, and voted 5-0 to recommend that the Board of County Commissioners approve the proposed amendment with a modification to policy 5.6 of the Sanitary Sewer Sub-Element to add language regarding the County's commitment to pursue and identify all opportunities for funding septic to sewer projects (see Attachment #3). Based on PZC direction, language has since been added to policy 5.6 of the Sanitary Sewer Sub-Element to state that the County will identify and pursue funding opportunities for septic to sewer projects and sewer connections.

### **BCC Action (Transmittal Public Hearing)**

After the PZC hearing, the BCC held its transmittal hearing on March 20, 2018, and voted 4-0 to transmit the proposed comprehensive plan text amendment to state and regional review agencies (see attachment #4). Subsequently, staff transmitted the proposed amendment to state and regional review agencies.

### **State Agency Review**

After transmittal and review of the proposed amendment, no state or regional reviewing agency had any objections to the comprehensive plan text amendment (see attachment #5).

### **BCC Final Public Hearing**

The June 5, 2018 public hearing is the final step in the Comprehensive Plan amendment process. At that hearing, the BCC must decide whether or not to approve the proposed amendment. If the BCC approves the amendment, then staff must transmit the approved amendment to state and regional review agencies. The amendment becomes effective 31 days after the state land planning agency notifies the county that the plan amendment package is complete, if there are no timely objections to it.

## **Background**

On March 8, 2016, the Board of County Commissioners directed the Indian River County Department of Utilities Services (IRCDUS) to evaluate a countywide septic to sewer conversion plan based on a phased approach, as follows:

- Phase I: Develop a comprehensive priority ranking plan along with cost estimates for potential projects
- Phase II: Incorporate the ranking plan into the county comprehensive plan
- Phase III: Identify financing options and public outreach
- Phase IV: Encumber funds and implement priority projects

On July 18, 2017 the Board reviewed and approved a countywide septic to sewer conversion evaluation/ranking report prepared for the county by Schulke, Bittle & Stoddard, LLC. That report met the requirements of Phase I of the county's overall septic to sewer plan and included a review and ranking of 325 subdivisions served by septic systems, identification of a top 35 list of those subdivisions with the highest impact on the Indian River Lagoon, and an Engineers Opinion of Probable Cost for a septic to sewer conversion project for each of the top 35 ranked subdivisions. Upon approval of the countywide septic to sewer conversion evaluation/ranking report (completion of Phase I), the Board directed Community Development Department staff to initiate Phase II to incorporate the findings of the report into the Sanitary Sewer Sub-Element of the comprehensive plan.

Consistent with that Board direction, Community Development Department staff coordinated with IRCDUS staff and Florida Department of Health in Indian River County (DOH – Indian River) staff and prepared the attached proposed amendments to the Sanitary Sewer Sub-Element of the county's comprehensive plan and parallel amendments to the Future Land Use Element of the county's comprehensive plan (Attachment 6). In those attachments, proposed changes are shown with ~~strike-through~~ and underline format. The amendments involve changing target dates for policy completion, deleting out of date text and policies, removing/revising out-of-date references, adding new policies and text based on the recently adopted septic to sewer ranking plan, and updating maps and tables.

## **ANALYSIS**

Pursuant to the Board's direction and requests from county departments/divisions, 20 policies, 3 objectives, and various texts and maps of non-policy sections of the Sanitary Sewer Sub-Element of the county's comprehensive plan are proposed to be revised. Related parallel minor edits to the text and 2 policies are proposed in the Future Land Use Element of the county's comprehensive plan.

Many of the proposed text updates relate to removing/updating out-of-date references, adding clarification through re-wording, and adding additional detail to bring both the Sanitary Sewer Sub-Element and Future Land Use Element up-to-date. With respect to the Board's direction related to septic systems and septic to sewer conversion, extensive updates have been made to the "Septic Systems" subsection of the Sanitary Sewer Sub-Element. That text begins on page 19 with a review of recent statistics on septic systems, a description of how a septic system operates, maintenance issues, and design requirements for septic systems. That sub-section ends with a review of the recently completed Septic to Sewer study and the results of that study, including the list of the top 35 subdivisions served by septic systems and having a highly ranked priority for septic to sewer conversion.

With respect to the Sanitary Sewer Sub-Element several policies and two objectives have been updated to implement items from the approved septic to sewer conversion study. Those updated portions of the sub-element include Objective 2 and Objective 7, and Policies 2.3, 2.4, 2.6, 2.7, and 4.2. Collectively the updates reflect the County's decision to reduce septic system impacts on the Indian River Lagoon and St. Sebastian River by targeting high ranking septic to sewer projects based on the approved septic to sewer study.

For each proposed change, the following two summary tables identifies the policy #, objective #, whether the change is to the non-policy text portion of the plan, the associated page proposed for amendment, and a brief description of the proposed change. Summary Table 1 relates to the Sanitary Sewer Sub-Element, and Summary Table 2 relates to the Future Land Use Element.

<b>Table 1: Sanitary Sewer Sub-Element - Summary of Proposed Edits</b>	
<b>Pages (Objective ) *Policy</b>	<b>Description</b>
<b><u>Various</u></b>	Updated agency names/departments responsible for various activities.
<b><u>Various</u></b>	Removed old/outdated references.
<b><u>Various</u></b>	Minor text edits.
<b><u>Various</u></b>	Updated maps.
<b><u>7</u></b>	Updated design capacity of Blue Cypress Sanitary Sewer Package Facility.
<b><u>9</u></b>	Additional detail added for "By-Product Disposal".
<b><u>10</u></b>	Updated text describing discharge and re-use of effluent.
<b><u>10-13</u></b>	Updated current demand at County Regional Plants.
<b><u>14</u></b>	Updated sludge and septage disposal location & effluent disposal method for COVB Plant.
<b><u>15</u></b>	Updated summary table for County and COVB regional wastewater treatment systems.
<b><u>19</u></b>	Added history and current statistics on septic systems in County. Updated explanation of how a septic system functions. Added additional detail, including minimum size/capacities of septic systems and agency responsible for permitting.
<b><u>20</u></b>	Updated list of factors that makes septic systems challenging to permit.
<b><u>21-22</u></b>	Added information on life expectancy of septic systems, historic and current design criteria, problems with septic systems, and maintenance recommendations.
	Added explanation regarding allowance for development and re-development of undersized lots and the allowance for septic systems that do not meet current requirements.
<b><u>22-24</u></b>	Included text regarding the County's recently completed study that recognizes areas and subareas of the County in close proximity to the Indian River Lagoon, St. Sebastian River, and connecting waterways that are served by septic systems and have a higher negative impact on the lagoon water quality. Added a list of subdivisions for septic to sewer conversion within the Unincorporated Indian River County and City of Sebastian.
<b><u>25-26</u></b>	Updated state statute and Florida Administrative Code references and updated text to include DOH-Indian River as the administrator for the IRC septic system program. Updated criteria for when connection to wastewater systems is required.
<b><u>27-28</u></b>	Updated text on service areas for the County and City of Vero Beach.
<b><u>30</u></b>	Misc. text changes.
<b><u>31</u></b>	Updated table that lists typical concentrations for household wastewater, septic tank effluent and wastewater treatment plant effluent.

**Table 1: Sanitary Sewer Sub-Element – Summary of Proposed Edits (Cont'd)**

<b>Pages</b> (Objective ) *Policy	<b>Description</b>
<b><u>32-33</u></b>	Comparison of old (prior to 1983) and current (post 1983) design requirements and challenges of using septic systems in Indian River County.....physical limitations, including a discussion on soils and suitability/unsuitability for septic systems and a discussion on inadequate depth of water table. Problems with not maintaining a septic system and inability to recognize the existence of groundwater and surface water contamination until septic backs up into a home.
<b><u>34</u></b>	Added text suggesting conditions under which the County may want to consider imposing retrofitting existing development and updating the criteria/conditions for when older areas need to be switched from private septic systems to public sewer.
<b><u>36</u></b>	Removed outdated text that discussed the need to expand sewer plants.
<b><u>37</u></b>	Updated to only reference the Capital Improvements Element for the County's annually updated 5 year capital improvements program (no longer as an attachment to the Sanitary Sewer Sub-Element).
<b><u>41</u></b> *Policy 1.2	Changed "county utilities department" to "DEP" as responsible entity to inspect private wastewater treatment plants in Indian River County.
<b><u>41</u></b> *Policy 1.6	Removed the word "tank" from "septic tank systems".
<b><u>42</u></b> (Objective 2)	Moved the completion date out from 2015 to 2025. Increased the % from 50% to 60% of all existing units in the county's urban service area will be connected to the county's regional sewer system. Updated to include 2017 % of existing units that are connected to the county's regional sanitary sewer system.
<b><u>42</u></b> *Policy 2.1	Replaced the word "service" with "systems" in the sentence "The county shall continue to offer the utility assessment program to areas with septic service....".
<b><u>42</u></b> *Policy 2.3	Updated to reference Table 3.A.3 for priority subdivisions for connection to public sewer systems due to public health threats.
<b><u>42</u></b> *Policy 2.4	Updated to reference Table 3.A.3.1 and to indicate that the County will provide "public" sanitary service to areas where the lack of service is determined to be a public health threat and shall initiate sanitary sewer projects where feasible to serve priority subdivisions.
<b><u>42</u></b> *Policy 2.6	Deleted old policy that referred to coordinating with the City of Vero Beach and Town of Indian River Shores to prepare a financial analysis for consolidating utility services.
	Added new policy for the county to perform a financial analysis for septic to sewer conversion projects by 2018 and to identify a list of subdivisions to connect to the public sewer system and dates of connection.
<b><u>43</u></b> *Policy 2.7	New policy to require the county to connect at least five subdivisions identified in Table 3.A.3.1 to public sanitary sewer with costs to be recovered from those connecting to and directly benefiting from the system.
<b><u>43</u></b> *Policy 3.1	Edited policy to indicate that inspection results for heavy commercial and industrial uses "may" (instead of "shall") be used to guide decisions for sanitary sewer service expansion. Additional minor text edits.
<b><u>43</u></b> *Policy 3.3	Edited policy to require samplings of on-site sewage systems of hazardous waste generators.

<b>Table 1: Sanitary Sewer Sub-Element – Summary of Proposed Edits (Cont'd)</b>	
<b><u>Pages</u></b> (Objective ) *Policy	<b>Description</b>
<b><u>43</u></b> *Policy 4.2	Modified to “encourage” rather than “require” large volume irrigation users to use reuse water for irrigation.
<b><u>44</u></b> *Policy 4.4	Clarifies that new subdivisions over 25 lots/units must connect to a county water “re-use line”.
<b><u>44</u></b> *Objective 5	Changed completion date for implementation of the Capital Improvements Element from “2014” to “2022” and updated to only reference the Capital Improvements Element for the County’s annually updated 5 year capital improvements program (no longer as an attachment to the Sanitary Sewer Sub-Element).
<b><u>44</u></b> *Policy 5.1	Minor text edit to direct reader to the Capital Improvements Element.
<b><u>45</u></b> *Policy 5.5	Minor text edit to refer to “impact fees” as “capacity charges”.
<b><u>45</u></b> *Policy 5.6	Updated to add language regarding the County’s commitment to identify and pursue opportunities for funding septic to sewer projects and sewer connections.
<b><u>47</u></b> *Policy 6.4	Changed “county utilities department” to “DEP” as responsible entity to inspect package treatment plants in Indian River County.
<b><u>48</u></b> *Objective 7	Reduced the number of new septic systems that the County will permit annually by the year 2020 from 450 to 200.
<b><u>48</u></b> *Policy 7.1	Removed exception that allowed the use of septic systems to continue in residential subdivisions other than those subdivisions listed in Table 3.A.3. Text edits to remove the word “tank” from “Septic tank systems”.
<b><u>49</u></b> *Policy 7.2	Updated to include reference to state statute. Minor text edits to address name changes.
<b><u>49</u></b> *Policy 7.3	Updated to reference DOH – Indian River’s involvement and statutory requirements for repair and replacement of septic systems.
<b><u>49</u></b> *Policy 7.4	Updated minor texts to address name changes. Updated to reference SepticSearch.com as a source of information.
<b><u>49</u></b> *Policy 7.5	Added new policy to encourage a voluntary opt-in provision for septic system maintenance and to report maintenance activities.
<b><u>49</u></b> *Policy 7.6	Added new policy to encourage voluntary septic system repairs and modifications to meet current design requirements.
<b><u>51-53</u></b>	Updated Summary Table 3.A.6 to reflect policy changes.

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<b>Table 2: Future Land Use Element – Summary of Proposed Edits</b>	
<b><u>Pages</u></b> (Objective ) *Policy	<b>Description</b>
<b><u>46, 63-64, 78-79, 85 &amp; 87</u></b>	Numerous text edits to replace the word “septic tank” with “septic system”.
<b><u>63</u></b>	Updated county sewer and septic statistics.
<b><u>63</u></b>	Changed “Indian River County Public Health Unit, Division of Environmental Health” to “Department of Health in Indian River County (DOH-Indian River)”.
<b><u>78 &amp; 79</u></b>	Changed “Environmental Health Department” to “DOH-Indian River”.
<b><u>164</u></b> *Policy 7.7	Text edit to replace the word “septic tank” with “septic system”.
<b><u>165</u></b> *Policy 7.11	Text edit to replace the word “septic tank” with “septic system”. Changed “Environmental Health Department” to “DOH-Indian River”.

### **Consistency with Comprehensive Plan**

Comprehensive Plan amendment requests are reviewed for consistency with all applicable policies of the comprehensive plan. As per section 800.07(1) of the county code, the “Comprehensive Plan may only be amended in such a way as to preserve the internal consistency of the plan.

For a proposed amendment to be consistent with the plan, the amendment must be consistent with the goals, objectives and policies of the comprehensive plan. Policies are statements in the plan, which identify actions the county will take in order to direct the community’s development. As courses of action committed to by the county, policies provide the basis for all county land development related decisions-including plan amendment decisions. While all comprehensive plan objectives and policies are important, some have more applicability than others in reviewing plan amendment requests. Of particular applicability for this request is Policy 14.3.

### **Future Land Use Element Policy 14.3**

In evaluating a comprehensive plan amendment request, the most important consideration is Future Land Use Element Policy 14.3. This policy requires that one of four criteria be met in order to approve a comprehensive plan amendment request. These criteria are:

- The proposed amendment will correct an oversight in the approved plan;
- The proposed amendment will correct a mistake in the approved plan;
- The proposed amendment is warranted based on a substantial change in circumstances ; or
- The proposed amendment involves a swap or reconfiguration of land use designations at separate sites, and that swap or reconfiguration will not increase the overall land use density or intensity depicted on the Future Land Use Map.

In this case, the proposed Sanitary Sewer Sub-Element and corresponding land use element amendments meet Policy 14.3’s third criterion. The proposed changes were either directed by the Board, or requested by a local agency/organization or staff due to changes in circumstances. For the proposed Sanitary Sewer Sub-Element and corresponding Future Land Use Element amendments, changed circumstances include the need to update outdated information and references, the need to

provide more feasible implementation dates, and the need to implement new policy recommendations from the recently approved septic to sewer study.

### **Summary of Consistency with the Comprehensive Plan**

While Policy 14.3 is particularly applicable to this request, other Comprehensive Plan policies and objectives also have relevance. For that reason, staff evaluated the subject request for consistency with all applicable plan policies and objectives. Based upon that analysis, staff determined that the request is consistent with the County's Comprehensive Plan.

### **CONCLUSION**

Staff's position is that updating the county's Sanitary Sewer Sub-Element and corresponding portions of the Future Land Use Element, as proposed, is warranted based on changes in circumstances including the Board's desire to implement recommendations from the recently approved septic to sewer study, and to ensure that the county's comprehensive plan remains current and accurate.

### **RECOMMENDATION:**

Based on the analysis, staff and the Planning and Zoning Commission recommend that the Board of County Commissioners approve the proposed Comprehensive Plan text amendment by approving the attached ordinance and authorize the Community Development Director to transmit the ordinance and any related materials to the state land planning agency and interested parties.

### **ATTACHMENTS:**

1. Comprehensive Plan Text Amendment Application
2. July 5, 2017 Board of County Commissioners Agenda Item – Countywide Septic to Sewer Conversion Evaluation/Ranking Report – Results
3. Minutes from the February 8, 2018 PZC meeting
4. Minutes from the March 20, 2018 BCC Meeting
5. Letter from Department of Economic Opportunity and Related Correspondence from Review Agencies
6. Adoption Ordinance (includes Appendix A proposed Comprehensive Plan Text Amendment)