

## **MEMORANDUM**

**Date:** October 27, 2009

**To:** Northeast Florida Regional Council Board of Directors

**Through:** Legislative Policy Committee

**From:** Brian D. Teeple, Chief Executive Officer

**Re:** Framework for Growth Management Delegation

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Attached please find a white paper entitled, ***A Framework for Growth Management Delegation***. This paper provides a conceptual outline for delegation, in a pilot program format, of growth management (Local Government Comprehensive Plans and Developments of Regional Impact) review and decision making from the Florida Department of Community Affairs to the Northeast Florida Regional Council. At the meeting I will review the attached on a point-by-point basis. However, I would like to provide the Council with some of the pros and cons associated with this proposal.

### **PROS**

- ❖ Decisions would be made by the Board, a "jury of peers," with intimate knowledge of local and regional conditions.
- ❖ Staff would have enhanced opportunities to work with our member local governments in advance of transmittal to assure that land use change proposals are as acceptable as possible.
- ❖ Time and money would be saved by local governments and applicants not needing to travel to Tallahassee for meetings.
- ❖ This proposal would eliminate any question regarding the value of the regional review process.

## **CONS**

- ❖ Final authority would change the Board dynamic and the nature of the relationship between the Council and its member local governments.
- ❖ Final authority would require the Board to recognize the weight and implications of decisions.
- ❖ Counties, adversely affected by Council decisions, could posture to withhold dues or to lobby for adverse legislative changes.
- ❖ This proposal would eliminate the process of “floating a trial balloon” up to DCA, then blaming them when they take an adverse position.
- ❖ Powerful special interests in Tallahassee may not favorably consider this proposal and the ramifications of this possibility are not currently calculable.
- ❖ Uncertain funding from the Legislature could leave the Council vulnerable to a sizeable unfunded mandate.

Overall the character of the Council would change from being viewed as a convener of the region, a place of neutrality (“good offices”), and a source of technical assistance to a more regulatory posture. However, in the current context our historic role may not be sustainable from a relevance, public policy or fiscal perspective.

## **RECOMMENDATION**

I recommend the Council support the concept of a “pilot program” delegation of growth management responsibilities. Allow staff to begin to work this through the process and to report back to the Council each month for further direction.

## **A Framework for Growth Management Delegation**

**A pilot program for the delegation of growth management responsibilities from the state land planning agency (Florida Department of Community Affairs) in comprehensive planning district 4 to the Northeast Florida Regional Council is hereby established. The period of the pilot program shall be from October 1, 2010 through September 30, 2015.**

**The pilot program shall be for a period of five years and shall sunset unless extended or made permanent by the Florida Legislature.**

**The Legislative Committee on Intergovernmental Relations shall undertake a study of the effectiveness of the pilot program and shall report to the Speaker of the House and the President of the Senate by December 31, 2014.**

**Programs specifically delegated are the state land planning agency responsibilities under Chapter 163, Part III, Florida Statutes, The Local Government Comprehensive Planning and Land Development Regulation Act of 1985 and Section 380.06, Florida Statutes, The Florida Land and Water Management Act of 1972. This delegation is in addition to existing responsibilities established in Chapter 163 and Chapter 380, Florida Statutes. Nothing in this pilot program relieves the Council from its existing responsibilities.**

**The Northeast Florida Regional Council shall submit annual performance report on a form developed by the Florida Department of Community Affairs by December 31 of each year of the pilot program.**

**The pilot program is predicated on an annual appropriation from the Florida Legislature sufficient to defray the additional costs to the Council for undertaking the pilot program.\***

**The delegation shall be for all of the local governments in comprehensive planning district 4. OPTION – Local governments could be given the one-time option to opt out of being subject to the pilot project before October 1, 2010.**

**The Department of Community Affairs would maintain jurisdiction over the significant impacts to State resources resulting from the Northeast Florida Regional Council's first impression decisions similar to their responsibilities under the Alternative Review program. Costs for exercising this option shall be borne by the Department of Community Affairs.**

**The weighted vote procedures prescribed in the Northeast Florida Regional Council Interlocal Agreement is superseded for decisions made pursuant to the pilot program.**

**The Board of Directors, by a 2/3 vote of the membership of those members present, constituting a quorum, but in no case less than a majority of the membership, may discontinue participation in the pilot program on June 30 of any year so long as that decision is made by March 1 of that year.**

**\* Initial estimates indicate the need for 3-4 additional FTE's and associated costs, plus funds for legal, advertising, litigation (legal, expert witness and DOAH fees), and other associated costs.**