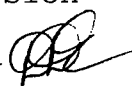





MEMORANDUM

To: Members, Charter Review Commission

From: Daniel Eckert, County Attorney 
Michael Dyer, Assistant County Attorney 

Date: June 8, 2006

Re: Proposed Amendments Relating to School Capacity

On April 25, 2006, the School Board of Volusia County rendered a recommendation to this Commission for an amendment which grants the County the authority to adopt a county-wide ordinance to impose conditions on land use changes to ensure available school capacity.

On May 22, 2006, the Integrating Economic Development and Education subcommittee recommended an amendment which conditions municipal and county comprehensive plan amendments and rezonings allowing increased residential density to a certification of school capacity by or mitigation agreement with the school district. The subcommittee's recommended version is attached.

Last week, we received revisions from the school district. In response, we met with school district staff and their consulting attorney, Clay Henderson, which resulted in the drafting of an alternate proposal titled "Alternate Proposal #1." In addition, we have drafted another alternative approach, titled "Alternate Proposal #2." Copies of each proposal are attached for your review.

Each of these proposals invoke the constitutional authority of charter counties to enact county-wide ordinances under Art. VIII, sec. 1(g) to prevail over conflicting municipal ordinances, resolutions and comprehensive plan provisions;

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Proposed Amendments Relating to School Capacity

require the adoption of an implementing ordinance by the county council no later than December 31, 2007; and restrict comprehensive plan amendments and rezonings to a finding by the school district that its schools can accommodate the additional students attributable to resulting increases in residential density. The versions differ, however, in their approach.

We continue to meet with school district staff over the legal implications of these proposals. As a result, additional changes may be required.

We will be prepared to speak to these proposals with you at your upcoming meeting on Monday, June 12, 2006.

**Proposed Amendment No. __
(School Capacity)
Subcommittee Recommendation**

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Words ~~struck~~ are deletions; words underscored are additions.)

Article II, Section 202.x is hereby created to read as follows:

Sec. 202.x. School Capacity.

The county council shall provide by ordinance no later than December 31, 2007 that no county or municipal comprehensive plan amendment or rezoning allowing increased residential density shall be effective unless the school district: 1) certifies that its schools can accommodate the additional students attributable to the increase in residential density; or 2) enters into an agreement which provides mitigation measures to offset the impact on school capacity. Any ordinance implementing this section shall prevail over conflicting municipal comprehensive plan, ordinance or resolution provisions.

**Proposed Amendment No. __
(School Capacity)
Alternate Proposal #1**

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Words ~~struck~~ are deletions; words underscored are additions.)

Article II, Section 202.x is hereby created to read as follows:

Sec. 202.x. School Capacity.

The county council shall provide by ordinance no later than December 31, 2007 that no county or municipal comprehensive plan amendment or rezoning allowing increased residential density shall be effective unless the school district determines, including by means of agreement, that its schools will accommodate the additional students attributable to the increase in residential density. The council may provide a time within which such determination shall be made. Any ordinance implementing this section shall prevail over conflicting municipal comprehensive plan, ordinance or resolution provisions.

**Proposed Amendment No. __
(School Capacity)
June 8, 2006
Alternate Proposal #2**

The proposed amendment, in full, shall read as follows:

The Volusia County Home Rule Charter, Chapter 70-966, Laws of Florida (Sp. Acts), as previously amended, shall be further amended in pertinent part as follows:

(Words ~~struck~~ are deletions; words underscored are additions.)

Article II, Section 202.x is hereby created to read as follows:

Sec. 202.x. School Capacity.

The county council shall provide by ordinance no later than December 31, 2007 that no county or municipal comprehensive plan amendment or rezoning allowing increased residential density shall be effective unless Volusia district schools can accommodate the additional students attributable to the increase in density. Any ordinance implementing this section shall respect the constitutional authority of the school district to operate, control, and supervise its public schools. Any ordinance implementing this section shall prevail over conflicting municipal comprehensive plan, ordinance or resolution provisions.