



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 2132, Version: 1

Subject:

Memorandum of Agreement with the East Central Florida Regional Planning Council to assist Brevard County with addressing deficiencies in the County's 2017 Evaluation and Appraisal Report (EAR), as identified by the Florida Department of Economic Opportunity (DEO).

Fiscal Impact:

\$70,000 - Available per Resolution No. 2020-030 Approving Third Quarter Supplemental Budget for Fiscal Year 2019-2020.

Dept/Office:

Natural Resources Management Department (NRM)/Planning & Development Department (P&D)

Requested Action:

Staff requests that the Board authorize the County Manager to execute a Memorandum of Agreement (MOA) with the East Central Florida Regional Planning Council (ECFRPC) to assist Brevard County with addressing deficiencies in the County's 2017 Evaluation and Appraisal Report (EAR), as identified by the Florida Department of Economic Opportunity (DEO) per SB 1094 (Laws of Florida No. 2015-69), an act relating to the peril of flood requirements for the Coastal Management element of local Comprehensive Plans.

Summary Explanation and Background:

Comprehensive Plan Evaluation and Appraisal Report Background

Every seven years, in accordance with Rule Chapter 73C-49, Florida Administrative Code, each local government must determine whether there is a need to amend the Comprehensive Plan to reflect changes in statutory requirements that have been enacted since the previous EAR was implemented. In May 2015 the Governor passed SB 1094 (Laws of Florida No. 2015-69), an act relating to the peril of flood; amending section 163.3178(2), F.S.; specifying requirements for the Coastal Management element required for local Comprehensive Plans. The amended statute (known commonly as "Peril of Flood" statute) requires the following:

- (f) A redevelopment component that outlines the principles that must be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. The component must:
 - 1. Include development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of sea-level rise.
 - 2. Encourage the use of best practices development and redevelopment principles,

- strategies, and engineering solutions that will result in the removal of coastal real property from flood zone designations established by the Federal Emergency Management Agency.
3. Identify site development techniques and best practices that may reduce losses due to flooding and claims made under flood insurance policies issued in this state.
 4. Be consistent with, or more stringent than, the flood-resistant construction requirements in the Florida Building Code and applicable floodplain management regulations set forth in 44 C.F.R. part 60.
 5. Require that any construction activities seaward of the coastal construction control lines established pursuant to s. 161.053 be consistent with chapter 161.
 6. Encourage local governments to participate in the National Flood Insurance Program Community Rating System administered by the Federal Emergency Management Agency to achieve flood insurance premium discounts for their residents.

Due to this legislation, the County was required to update the Coastal Management Elements to meet these requirements. Other proposed modifications in the EAR included scrivener's error corrections, updates of agency names, and other minor revisions. Of note in the staff report is the County response to section 163.3178(2)(f)1., F.S. and proposed language, below:

"In its Comprehensive Plan, Brevard County has development and redevelopment principles and strategies that reduce the flood risk in coastal areas; however, not specifically related to climate change and sea-level rise. The East Central Florida Regional Planning Council (ECFRPC) received funding from the Florida Department of Environmental Protection (FDEP) to develop a Regional Resiliency Action Plan (RRAP) for Brevard and Volusia Counties focusing on resiliency and sustainability related to climate change. Brevard County will participate and serve on the steering committee. This effort will provide data and analysis required to develop a RRAP and the associated Comprehensive Plan policies. In the interim, the following policy statement (Coastal Management Element, Objective 6, Coastal High Hazard Areas, Policy 6.6,) is proposed:

"Brevard County shall participate in the East Central Florida Regional Planning Council's state-funded project to develop a RRAP focusing on resiliency and sustainability. Once complete, Brevard County shall include in the Coastal Management Element development and redevelopment principles, strategies, and engineering solutions that reduce the flood risk in coastal areas which results from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of climate change."

On November 2, 2017, the Board approved the transmittal of Brevard's EAR-based Amendments 2017-2.2 (attached) to the State Land Planning Agency Department of Economic Opportunity (DEO) and other State review agencies for State Coordinated Review. DEO acknowledged that, pursuant to Section 163.3191(2), Florida Statutes, the EAR amendments were received on November 13, 2017.

DEO Transmittal Objection

On January 12, 2018, DEO issued its Objection Recommendation and Comments (ORC) Report (attached) to Brevard County. They stated that the proposed amendments do not provide a coastal redevelopment component in the Coastal Management Element that address sections 163.3178(2)(f)1-3 F.S. They further

stated, “Though an action plan for Brevard County may emerge from the ongoing ECFRPC and FDEP project, there is presently sufficient data, available tools and statutory direction for the County to move ahead under the current plan update to develop a coastal redevelopment component that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.”

DEO recommended revising the amendment, prior to adoption, to provide a coastal redevelopment component within the Coastal Management Element that addresses how to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise. Specific recommendations include:

- Identification of at-risk coastal areas, including areas that have historically experienced flooding and coastal inundation. This should be accomplished by using available models and mapping tools, to better identify those portions of the community most vulnerable to the effects of projected sea-level rise and future coastal flooding hazard.
- In these areas, identify the public and private resources at risk to flood hazard including; public facilities and infrastructure, cultural, historic and natural resources important to the community, and certain private assets/investments located, or planned to be located within the affected areas (e.g., elder care and important medical facilities).
- Developing specific redevelopment principles, strategies, and engineering solutions based upon the community's values, capacity, and projected fiscal resources, that will allow better protection identified areas of flood risk. The county should seek to minimize impacts to identified facilities and resources and improve the community's resilience to disasters and aid rapid post-disaster social and economic recovery actions.

DEO also recommended that, before adoption, the county coordinate with the ECFRPC as, in addition to developing the aforementioned action plan for the region, has expert staff familiar with the Peril of Flood requirements needed to address Section 163.3178(2)(f)1-3 F.S. And upon completion of the ongoing RRAP, future amendments may provide data and analyses updates and additional redevelopment principles, strategies, and engineering solutions.

DEO took into consideration the ongoing efforts of ECFRPC, and the future resulting data and analyses that would likely benefit the County in policy development. In a letter dated June 4, 2019, DEO extended the Amendment No. 17-3ER adoption date to December 5, 2021 to allow time to address the objection and submit a revised proposed amendment.

Brevard County staff has been working diligently to respond to the deficiencies of the proposed EAR Amendments:

- The County participated in ECFRPC’s development of the RRAP (attached), which was completed in December 2018 and adopted unanimously by the Board on March 27, 2019 (Resolution 19-039 attached). The goal of the RRAP is to increase the ability of local and regional stakeholders to implement resiliency and climate adaptation strategies across disciplines. Aiming to improve safety, long-term resilience, and sustainability across sectors, expand economic sustainability and response to vulnerabilities within the community. The section entitled “Regional Planning for Sea-Level Rise”

establishes a range of expected rises utilizing three projection rate curves and short/long term planning horizons. However, the plan does not fully address Peril of Flood requirements.

- In September 2019, Brevard County executed a Memorandum of Understanding (MOU), joining the East Central Florida Regional Resiliency Collaborative (ECFR2C) as one of the counties in the East Central Florida region committed to implementing resilience measures as guiding principles for the future. Staff serve on the Steering Committee and Technical Advisory Committees (TACS).
- Staff undertook drafting of additional policies to address Peril of Flood. However, upon informal consultation with DEO, we have good reason to believe that DEO will find the subsequent policies inadequate to address Peril of Flood.

In its ORC Report, DEO recommended that the County consult with ECFRPC, as it has expert staff familiar with the Peril of Flood requirements needed to address Section 163.3178(2)(f)1-3 F.S. Additionally, ECFRPC has successfully developed Peril of Flood policies for five municipalities within Brevard County. The proposed scope of services was developed to assist the County with addressing this matter. NRM requested and received \$70,000 from FY18-19 balance forward funds to contract with ECFRPC to complete the necessary data analysis and policy development for Peril of Flood.

ECFRPC MOA

Attached for Board consideration is the MOA for ECFRPC to perform the following services:

Task 1: Vulnerability Assessment & Community Engagement.

Task 1 is analysis of Brevard County's social, economic and functional vulnerability to current and future flooding resulting from high-tide events, storm surge, flash floods, stormwater runoff, and the related impacts of projected sea level rise. ECFRPC will build on a previous vulnerability assessment completed by ECFRPC for the Space Coast Transportation Planning Organization (TPO) in 2018 that focused specifically on assets that contribute to transportation functionality within Brevard County. Cross-departmental collaboration during this project will augment the TPO study, adding appropriate data (e.g., floodplain data, areas of known nuisance flooding, recent drainage studies) and additional analyses where gaps are identified to best evaluate all areas, facilities and resources within unincorporated Brevard County. To maintain regional consistency, this project will utilize the RRAP's recommended approach to planning for sea level rise. Future sea level rise inundation impacts will be assessed at baseline planning horizons (2040, 2070 and 2100) utilizing U.S. Army Corps of Engineers (USACE) and National Oceanographic Atmospheric administration (NOAA) projection rate curves.

Community engagement during Task 1 will include conducting an interactive online public survey and presentation of findings at public meetings. The goal of the public survey is to assess community values regarding assets of concern in Brevard County that may be affected by flooding or projected sea level rise and potential strategies to mitigate such hazards. ECFRPC will present the results of the public survey along with findings of the vulnerability assessment at a minimum of two public meetings in Brevard County to gather additional information and comments. Deliverables of Task 1 include a Vulnerability Analysis Report and a Public Engagement Report.

Task 2: Strategy and Policy Development.

Task 2 will focus on developing strategies and engineering solutions to minimize impacts of flood hazard to facilities and resources and improve community's resilience to disasters. Based on community values and Brevard County's capacity to act, including available and projected fiscal resources, draft policies that guide the decision-making process for future development, infrastructure projects and programs to assist local economic growth and community resilience will be developed for implementation in the Comprehensive Plan.

Draft proposed Comprehensive Plan amendments in strike-through and underline format will be produced through cross-departmental collaboration based on the information and data obtained through the vulnerability assessment and public engagement. The development of the amendments will also be based on strategies and input from RW Parkinson, Inc. to ensure compatibility with the actions and recommendations in the Indian River Lagoon Action Plan. Legal expertise from Florida Sea Grant will also be utilized to provide input from other locales, legal interpretations, guidance and other relevant input. Proposed amendments will include examples of strategies, principles, and related engineering solutions that reduce flood risk in coastal areas of Brevard County, and site development techniques that may reduce losses to the local government and property owners due to coastal flooding.

Any and all Comprehensive Plan amendments developed under this MOA are subject to Brevard County Attorney's Office review and approval. The Board has final authority to approve or deny the submittal to DEO of any and all amendments for Adoption.

Value of Peril of Flood MOA

Per Section 163.3191 F.S., any local government that fails to submit proposed amendments necessary to reflect changes in state requirements within the established time frame may not amend its Comprehensive Plan until such time as it complies. While this would be an unfortunate situation, there are more compelling reasons to proceed. Planning for resilience to reduce flood risk in Brevard means our communities, infrastructure, and economy will be more able recover from shocks and stressors, including storm events and rising surface waters.

Our neighboring coastal counties of Volusia and Indian River have adopted policies to comply with Peril of Flood. The ECFRPC has developed Peril of Flood policies for Satellite Beach, Melbourne Beach, Rockledge, and Cocoa; and are in the process of finalizing policies for Cape Canaveral.

Credit Ratings

Ratings firms like Moody's Investors Services, Inc. (Moody's) are beginning to focus on climate change. Moody's has issued numerous papers assessing climate risk, and purchased a majority stake in Four Twenty Seven, a firm offering on-demand risk analytics to support investment strategies and climate risk disclosures, and data products with over 1,000,000 climate risk scores for counties, cities, and real estate assets globally. New Orleans and Port Arthur, Texas, experienced credit downgrades after major hurricanes. Conversely, in 2018 Moody's upgraded the City of Miami's primary bond rating from A1 to Aa2, in part due to the positive nature of the Miami Forever Bond Program as the city was proactively addressing sea level rise (SLR) and affordable housing, in addition to noting that city resiliency was important to continue to grow tourism,

population growth, and downtown development. The lower interest rate on the Miami Forever Bond Program will reduce the long-term costs to residents.

Existing Flood Risk Data

Online flood risk analysis tools are readily available online:

- Realtor.com® integrates Floodfactor.com data; including flood risk information on for-sale and off-market properties. Properties display a Flood Factor™ score from First Street Foundation, a nonprofit research and technology group, representing its cumulative risk of flooding over a thirty-year mortgage. Realtor.com® also displays property FEMA Flood Zone, providing an improved understanding of their flood risk.
- Corelogic.com is publicly traded provider of consumer, financial and property data, analytics and services to business and government.
- Myfloodrisk.org has tools to determine flood risk, estimate potential flood losses, and assess insurance coverage gaps.

As citizens have access to an unprecedented amount of risk data, they become more savvy when making decisions related to investing in a community, whether buying a home or opening a business.

FEMA National Flood Insurance Program (NFIP)

The FEMA NFIP Community Rating System (CRS) credits lower flood insurance rates. CRS is partly an activity-based program. By undertaking certain activities, like enhanced public outreach regarding SLR and resiliency, and hazard disclosure considering future threats from climate change and SLR, a CRS community can gain points and potentially increase in class. CRS is also a regulatory program. By codifying and enforcing regulatory standards that surpass the minimum NFIP requirements, a CRS Community can again be rewarded with points (credits) that lower flood insurance rates charged for properties within that community.

Through policy leadership and collaboration across multiple City departments, the City of Miami Beach improved its CRS score from Class 6 to Class 5, which increased flood insurance premiums savings from 20 to 25% citywide effective May 1, 2019; and is expected to increase community insurance savings by \$1.7 million annually.

Requested action

Staff requests that the Board authorize the County Manager to execute the attached MOA with ECFRPC.

Clerk to the Board Instructions:

None.