

**ADMINISTRATION COMMISSION
AGENDA**

August 9, 2005

1. **Request approval of the minutes of the meeting held June 1, 2005.**
2. **Consideration of a Recommended Order issued by the Division of Administrative Hearings in the proceeding Eloise Community Redevelopment Agency, Bruce Bachman and Johnny Brooks vs. Polk County, Florida, and Don C. Smith (DOAH Case No. 05-0717GM) and Citizens for Proper Planning, Inc. vs. Polk County, Florida (DOAH Case No. 05-0787GM) (AC Case No. ACC-05-006).**

On February 2, 2005, the Polk County Board of County Commissioners adopted Ordinance No. 05-004, a small scale amendment, changing the land use designation of a 9.9 acre parcel of property on the Polk County Future Land Use Map from Residential Low-4 to Industrial. The land use change was requested to cure the non-conforming status of the subject property.

In response to the land use amendment, two petitions challenging compliance of the small scale amendment were filed with the Division of Administrative Hearings (DOAH) - Eloise Community Redevelopment Agency, Bruce Bachman and Johnny Brooks vs. Polk County, Florida (DOAH Case No. 05-0717GM) and Citizens for Proper Planning, Inc. vs. Polk County, Florida (DOAH Case No. 05-0787GM). Don C. Smith, owner of the subject property, was granted leave to intervene in DOAH Case No. 05-0717GM. Petitioners allege the small scale amendment is not in compliance with Chapter 163, F.S., the State's Comprehensive Plan, the Polk County Comprehensive Plan, the Eloise Community Agency Redevelopment Plan, and Rule 9J-5, F.A.C.

On April 6 and 7, 2005, DOAH Administrative Law Judge Charles A. Stampelos conducted an administrative hearing in Bartow, Florida. Judge Stampelos issued a Recommended Order on July 8, 2005, recommending the Administration Commission enter a final order concluding the plan amendment adopted by Polk County Ordinance No. 05-004 is not in compliance as defined in section 163.3184(1)(b), F.S. No exceptions to the DOAH Recommended Order were filed with the Commission.

Recommendation:

The staff recommendation will be distributed separately.

Back-Up:

DOAH's Recommended Order received on July 8, 2005.

Draft Final Order. (To be distributed separately.)

3. **Consideration of Proposed Rule 28-20.110, Comprehensive Plan, and Proposed Rule 28-20.120, Land Development Regulations – Monroe County (AC Case No. RUL-04-006).**

On March 9, 2004, the Administration Commission authorized staff to initiate rulemaking to amend the Work Program set forth at Policy 101.2.13 of the Monroe County Comprehensive Plan and adopt the necessary land development regulations. Pursuant to the concepts approved by the Commission, proposed rule 28-20.110 addresses building permit allocations by increasing the annual residential permitting cap and specifying allocations authorized for market rate and affordable housing; restores certain allocations previously reduced to be targeted for affordable housing; authorizes certain unused rate of growth ordinance allocations to roll forward; and deletes the requirement for nutrient credits upon certain criteria being met. Additionally, the rule amends the Work Program set forth in Policy 101.2.13 of the Monroe County Comprehensive Plan to establish Work Program provisions for Year 8, Year 9, and Year 10 to address tasks not yet completed in the original Work Program. Proposed rule 28-20-120 addresses adoption of necessary land development regulations.

Pursuant to Chapter 120, F.S., a notice of rule development and a notice of proposed rule were published in the *Florida Administrative Weekly*. Both notices provided for public hearing opportunities, if requested. No public hearings were requested and no public hearings were conducted. In response to the notice of proposed rule, petitions challenging the validity of the rules were filed with the Division of Administrative Hearings (DOAH) by the Florida Keys Citizens Coalition, Inc., and Last Stand, Inc. Petitioners assert that portions of the rules were invalid exercises of delegated legislative authority. An administrative hearing was conducted on October 11 through 15 and November 15 through 18, 2004. The DOAH Administrative Law Judge issued a Final Order dismissing the challenges on June 30, 2005.

Recommendation:

Approve proposed rules 28-20.110, Comprehensive Plan, and 28-20.120, Land Development Regulations – Monroe County, and authorize the Secretary to file for final rule adoption.

Back-Up:

DOAH's Final Order issued June 30, 2005.

Final Rulemaking Package.