

**ADMINISTRATION COMMISSION  
AGENDA**

**July 29, 2008**

1. **Approval of the minutes of the meeting held March 25, 2008.** Deferred from the June 10, 2008, meeting.
2. **Approval of the minutes of the meeting held April 29, 2008.** Deferred from the June 10, 2008, meeting.
3. **Consideration of a Recommended Order Issued by the Division of Administrative Hearings in the Proceeding of Jennifer Cochran vs. City of Crestview and B & H Contracting, Inc. (AC Case No. ACC-08-002).** Deferred from the June 10, 2008, meeting.

On November 26, 2007, the City of Crestview adopted Ordinance No. 1370, a small-scale development amendment, changing the future land use designation on the City's Future Land Use Map (FLUM) from a Rural Residential (RR) designation to Industrial (IN) for a 9.98 acre parcel owned by B & H Contracting, Inc. (B & H). The land use change was requested to allow B & H to construct a concrete batch plant on the subject property.

Petitioner, Jennifer Cochran, filed a Petition for Formal Administrative Hearing (Petition) with the Division of Administrative Hearings (DOAH) on December 24, 2007, challenging the small-scale amendment. Petitioner filed an amended Petition on February 7, 2008, alleging that the plan amendment: exceeded the 10 acre size limitation for small-scale amendments; conflicted with certain provisions of Chapter 9J-5, Florida Administrative Code; was not based on adequate data and analysis; and, was inconsistent with provisions of the City's Comprehensive Plan and Chapter 163, Florida Statutes. B & H was authorized to intervene in the proceeding by the DOAH Administrative Law Judge on January 18, 2008.

On February 14, 2008, DOAH Administrative Law Judge Donald Alexander conducted an administrative hearing in the City of Crestview, Florida. Judge Alexander issued a Recommended Order on April 21, 2008, recommending the Administration Commission enter a final order finding that the small-scale amendment adopted by the City by Ordinance No. 1370 is not in compliance. No exceptions to the DOAH Recommended Order were filed by the parties.

**Staff Recommendation:**

Authorize the Secretary to enter the Draft Final Order finding the small scale amendment not in compliance.

**Back-Up:**

DOAH's Recommended Order received on April 21, 2008. (Distributed with the June 10, 2008, agenda.)

Draft Final Order.

**4. Consideration of the 2008 Statewide Emergency Shelter Plan.**

Pursuant to section 1013.372(2), Florida Statutes, the Department of Community Affairs is responsible for preparing a Statewide Emergency Shelter Plan to guide local planning and provide consultative assistance with the construction of educational facilities to provide public shelter space. The Plan is prepared and submitted for approval on a biennial basis and, once approved by the Governor and Cabinet, will determine which regional planning council regions and counties will need to construct new school facilities that must comply with the public shelter design criteria. In accordance with the statute, the Plan must:

- Identify the general location and square footage of existing shelters by regional planning council regions;
- Identify the general location and square footage of needed shelters by regional planning council regions for the next five years;
- Identify the types of facilities which should be constructed to comply with the public shelter design criteria; and
- Recommend an appropriate and available source of funding for the additional cost of constructing emergency shelters within those public facilities.

**Staff Recommendation:**

Approve the 2008 Statewide Emergency Shelter Plan.

**Back-Up**

2008 Statewide Emergency Shelter Plan.

5. **Consideration of a Recommended Order Issued by the Division of Administrative Hearings in the Proceeding of Department of Community Affairs (Petitioner) and Joanne E. Kowal, C. Tomoka Brady, Patrick M. Wright, and C. Perry Brown (Intervenors) vs. City of Tallahassee and Leon County (Respondents) and Arbor Properties Development, Inc. (Intervenor) (AC Case No. ACC-08-003).**

On May 8, 2007, Leon County (County) adopted Plan Amendments 2007-1-T-015 and transmitted the package to the Department of Community Affairs (DCA) on May 24, 2007. On July 10, 2007, DCA issued a Notice of Intent to find the Plan Amendments not in compliance and filed a petition for formal administrative hearing with the Division of Administrative Hearings (DOAH). Petitions to intervene were filed and the DOAH Judge granted Intervenors Arbor Properties Development, Inc., (Arbor) intervention in support of the Plan Amendments. The DOAH Judge also granted Intervenors Joanne E. Kowal, C. Tomoka Brady, Patrick M. Wright, and C. Perry Brown (Kowal Intervenors) intervention in opposition to the Plan Amendments.

The issue in this proceeding is whether Plan Amendments 2007-1-T-015, which exempt “closed basins” from Lake Jackson Special Development Zone development restrictions, are in compliance as defined by Section 163.3184(1)(b), Florida Statutes.

DCA and the Kowal Intervenors allege the plan amendments adopted by the County are inconsistent with provisions of Chapters 163 and 187, Florida Statutes; provisions of 9J-5, Florida Administrative Code; and the Strategic Regional Policy Plan.

On November 28 through 30, and December 12, 2007, DOAH Administrative Law Judge J. Lawrence Johnston conducted an administrative hearing in the City of Tallahassee. Judge Johnston issued a Recommended Order on March 13, 2008, recommending the Administration Commission find the Plan Amendments are not in compliance.

On March 28, 2008, DCA and Intervenors Kowal filed joint exceptions to the DOAH Recommended Order. Additionally, the County and Intervenor Arbor each filed separate exceptions to the DOAH Recommended Order on March 28, 2008. Finally, DCA and Intervenors Kowal filed a joint response to the County’s and Arbor’s exceptions to the DOAH Recommended Order on April 15, 2008.

**Staff Recommendation:**

Staff Recommendation to be distributed separately.

**Back-Up**

DOAH's Recommended Order received on March 13, 2008.

Joint Exceptions to Recommended Order by Petitioner Department of Community Affairs and Intervenors Kowal received on March 28, 2008.

Arbor's Exceptions to the Recommended Order received on March 28, 2008.

Leon County's Exceptions to the Recommended Order received on March 28, 2008.

DCA and Intervenor Kowal's Joint Response to Leon County's and Arbor Properties' Exceptions to Recommended Order received on April 15, 2008.

Draft Final Order. (To be distributed separately.)