

ADMINISTRATION COMMISSION AGENDA

October 4, 2011

Attachments to the items below can be viewed at the following link:
http://www.myflorida.com/myflorida/cabinet/adcom/20111004_index.html

1. **Approval of the minutes of the August 2, 2011, and August 16, 2011, meetings.**
2. **Consideration of a Draft Final Order of Dismissal in the proceeding of Katie Pierola and Greg Geraldson vs. Manatee County and Department of Community Affairs and Robinson Farms, Inc., and Bochi Properties, LLC, AC Case No. ACC-11-001.**

The above referenced matter is brought before the Commission for final action through the following:

- Petitioners' Motion to Dismiss Proceeding Due to Mootness filed by the Petitioners, Katie Pierola and Greg Geraldson, on August 31, 2011, and
- Intervenors' Response to Petitioners' Motion to Dismiss Proceeding Due to Mootness filed by Intervenors, Robinson Farms, Inc., and Bochi Properties, LLC, on September 1, 2011.

Background:

In October, 2010, Manatee County adopted Ordinance Number 10-02 (Comprehensive Plan Amendment PA-10-02) changing the Future Land Use Map (FLUM) designation for a 28-acre tract of property from Residential 1 (RES-1) to Residential 3 (RES-3). The 28-acre tract is located in Manatee County and is owned by Intervenors, Robinson Farms, Inc., and Bochi Properties, LLC. FLUM designation RES-1 allows a density of one dwelling unit per acre and RES-3 allows a density of 3 dwelling units per acre.

In response to the adoption of Ordinance Number 10-02, the Department of Community Affairs ("Department") reviewed the Amendment and issued a Notice of Intent to find it "in compliance." Petitioners Katie Pierola and Greg Geraldson ("Petitioners") filed a Petition for Formal Administrative Hearing challenging the Amendment with the Department. The Department forwarded the Petition to the Division of Administrative Hearings ("DOAH") for assignment of an administrative law judge and further proceedings.

A DOAH final hearing was conducted on February 14 and 15, 2011. On April 13, 2011, the Administrative Law Judge rendered a Recommended Order finding the Amendment to be not "in compliance." The Recommended Order was forwarded to the Department and exceptions to the Recommended Order and opposition to the exceptions were filed by Intervenors and Petitioners, respectively. During the pendency of the Department's review of the Recommended Order, new legislation was adopted which altered the provisions regarding the comprehensive plan amendment review process. Therefore, the Department forwarded the Recommended Order and exceptions to the Commission for final agency action pursuant to Section 163.3184(5)(d), Florida Statutes (2011).

On August 23, 2011, Manatee County filed a Notice of Rescission of Comprehensive Plan Amendment PA-10-02 with the Commission. Petitioners filed a Motion to Dismiss Proceeding Due to Mootness on August 31, 2011, and the Intervenors filed a Response to Petitioners' Motion to Dismiss Proceeding Due to Mootness on September 1, 2011. Manatee County filed a Notice of Effective Date of Ordinance Rescinding Comprehensive Plan Amendment PA-10-02 on September 6, 2011.

Upon review of the matter, staff has concluded that adoption of Manatee County Ordinance Number 11-035, which expressly rescinds in its entirety Ordinance Number 10-02, renders the subject proceeding moot. Staff recommends approval of the Draft Final Order of Dismissal.

Staff Recommendation

Authorize the Secretary to enter the Draft Final Order of Dismissal.

Back-Up

Division of Administrative Hearings' Recommended Order; Intervenors' Exceptions to Recommended Order; and Petitioners' Opposition to Exceptions to Recommended Order received on July 28, 2010.

Manatee County's letter received on August 11, 2011.

Intervenors' Motion to Confirm Hearing for Final Agency Action received on August 23, 2011.

Manatee County's Notice of Rescission of Comprehensive Plan Amendment PA-10-02 received on August 23, 2011.

Petitioners' Response to Intervenors' Motion to Confirm Hearing Date for Final Hearing received on August 24, 2011.

Petitioners' Motion to Dismiss Proceeding Due to Mootness received on August 31, 2011.

Intervenors' Response to Petitioners' Motion to Dismiss Due to Mootness received on September 1, 2011.

Manatee County's Notice of Effective Date of Ordinance Rescinding Comprehensive Plan Amendment PA-10-02 and Response to Petitioners' Motion to Dismiss received on September 6, 2011.

Draft Final Order of Dismissal.