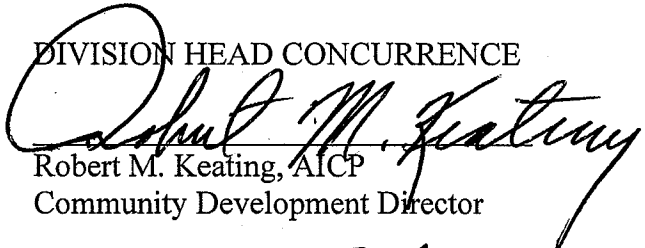


INDIAN RIVER COUNTY, FLORIDA

MEMORANDUM

TO: Member of Economic Development Council

DIVISION HEAD CONCURRENCE



Robert M. Keating, AICP
Community Development Director

THROUGH: Sasan Rohani, AICP *SR*
Chief, Long-Range Planning

FROM: Bill Schutt, AICP *BS*
Senior Economic Development Planner

DATE: May 5, 2006

SUBJECT: REVIEW OF THE STATE EVALUATION AND APPRAISAL REPORT
REQUIREMENTS AND THE COUNTY EAR PUBLIC PARTICIPATION PLAN

It is requested that the data herein presented be given formal consideration by the Economic Development Council (EDC) at its regular meeting of May 16, 2006.

DESCRIPTION AND CONDITIONS:

Recognizing that an effective comprehensive plan cannot remain static, Section 163.3191, F.S. requires that local planning should be a continuous and ongoing process. As part of this process, each local government in the state must periodically assess the success or failure of its comprehensive plan, address changing conditions, and update its plan to reflect changes in state policy on planning and growth management. As part of its Evaluation and Appraisal Report (EAR), each local government must identify major unresolved issues in its jurisdiction. Based on its EAR assessment, a local government must then update and revise its comprehensive plan to ensure that the plan continues to provide sufficient guidance for the local government to make appropriate

land development decisions.

Section 163.3191(2), F.S. lists the major components of an Evaluation and Appraisal Report (EAR). At a minimum, the EAR must address the following (those that specifically apply to the Economic Development Element are underlined):

- (a) Population growth and changes in land area, including annexation.
- (b) The extent of vacant and developable land.
- (c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element.
- (d) The location of existing development.
- (e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.
- (f) Relevant changes to the state comprehensive plan.
- (g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved.
- (h) A brief assessment of successes and shortcomings related to each element of the plan.
- (i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report.
- (j) A summary of the public participation program and activities undertaken by the local government in preparing the report.
- (k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational facilities plan adopted pursuant to s.1013.35.
- (l) Consideration of the appropriate water management district's regional water supply plan approved pursuant to s.373.0361.
- (m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster.
- (n) An assessment of whether the criteria adopted pursuant to Section 163.3177(6)(a) were successful in achieving compatibility with military installations.
- (o) An assessment of concurrency exception requirements and multimodal transportation district designations.
- (p) An assessment of changes needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing the concurrency management system.

Section 163.3191(7) specifies that the EAR must include findings and recommendations regarding items (a) through (m), listed above. In addition, Section 163.3191, F.S. requires that the EAR

identify changes needed to update the plan, including revised objectives, policies and standards. Section 163.3131(10), F.S. also states that any EAR-based plan amendments must be consistent with and implement the findings and recommendations of the EAR.

Section 163.3191(4), F.S. states that the Local Planning Agency (LPA) shall prepare the evaluation and appraisal report and shall make recommendations to the governing body. The local planning agency shall also hold at least one public hearing, with public notice, on the proposed report. According to state rules, Indian River County must submit its EAR to the state by December 1, 2008.

ANALYSIS:

According to the EAR Public Involvement Plan, the Economic Development Council is charged with developing the Economic Development Element (EDE) section of the Evaluation and Appraisal Report. In this capacity, the Economic Development Council should review staff reports, hold public meetings (at its regularly scheduled meetings), solicit public input, and provide direction to staff.

As a first step in this EAR development process, staff prepared an EAR work program and has begun collecting data and compiling information. That work program was distributed at the last EDC meeting and covers the overall process for creating the complete Indian River County Comprehensive Plan Evaluation and Appraisal Report.

Since the last EDC meeting, staff worked on a detailed work schedule specifically for the EDE portion of the EAR. This detailed work plan will be completed soon, and a copy of that work schedule will be forwarded to the EDC for the June meeting. In general, an EAR process should include the following steps:

1. Assemble Baseline Data
 - Identify Economic Development conditions that existed at the time of Comprehensive Plan adoption (1998)
 - Identify existing/current economic development conditions (2005/06)
2. Evaluate the achievement of EDE objectives
3. Evaluate the implementation of EDE policies (which policies contributed to the achievement of its objective and which policies did not contribute to the achievement of its objective)

4. Analyze development trends and conditions, and determine why certain objectives may not have been achieved
5. Identify major issues related to economic development
6. Identify future actions
7. Identify anticipated amendments

As the EAR process continues, the EAR will also include the analysis of the effects of land use and development trends and legislative or planning changes on economic development. Finally, the EAR will identify and recommend actions to address any planning issues, including necessary amendments to the comprehensive plan.

At this time, the Economic Development Council should review state EAR requirements and the county public participation plan and provide direction to staff.

RECOMMENDATION:

Staff recommends that the Economic Development Council review staff's report and provide general direction to staff.

ATTACHMENTS:

1. Copy of Section 163.3191, F.S., Evaluation and Appraisal of Comprehensive Plan
2. Copy of EAR Public Participation Plan



May 05, 2006

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163.3191 Evaluation and appraisal of comprehensive plan.--

(1) The planning program shall be a continuous and ongoing process. Each local government shall adopt an evaluation and appraisal report once every 7 years assessing the progress in implementing the local government's comprehensive plan. Furthermore, it is the intent of this section that:

(a) Adopted comprehensive plans be reviewed through such evaluation process to respond to changes in state, regional, and local policies on planning and growth management and changing conditions and trends, to ensure effective intergovernmental coordination, and to identify major issues regarding the community's achievement of its goals.

(b) After completion of the initial evaluation and appraisal report and any supporting plan amendments, each subsequent evaluation and appraisal report must evaluate the comprehensive plan in effect at the time of the initiation of the evaluation and appraisal report process.

(c) Local governments identify the major issues, if applicable, with input from state agencies, regional agencies, adjacent local governments, and the public in the evaluation and appraisal report process. It is also the intent of this section to establish minimum requirements for information to ensure predictability, certainty, and integrity in the growth management process. The report is intended to serve as a summary audit of the actions that a local government has undertaken and identify changes that it may need to make. The report should be based on the local government's analysis of major issues to further the community's goals consistent with statewide minimum standards. The report is not intended to require a comprehensive rewrite of the elements within the local plan, unless a local government chooses to do so.

(2) The report shall present an evaluation and assessment of the comprehensive plan and shall contain appropriate statements to update the comprehensive plan, including, but not limited to, words, maps, illustrations, or other media, related to:

(a) Population growth and changes in land area, including annexation, since the adoption of the original plan or the most recent update amendments.

(b) The extent of vacant and developable land.

(c) The financial feasibility of implementing the comprehensive plan and of providing needed infrastructure to achieve and maintain adopted level-of-service standards and sustain concurrency management systems through the capital improvements element, as well as the ability to address

infrastructure backlogs and meet the demands of growth on public services and facilities.

(d) The location of existing development in relation to the location of development as anticipated in the original plan, or in the plan as amended by the most recent evaluation and appraisal report update amendments, such as within areas designated for urban growth.

(e) An identification of the major issues for the jurisdiction and, where pertinent, the potential social, economic, and environmental impacts.

(f) Relevant changes to the state comprehensive plan, the requirements of this part, the minimum criteria contained in chapter 9J-5, Florida Administrative Code, and the appropriate strategic regional policy plan since the adoption of the original plan or the most recent evaluation and appraisal report update amendments.

(g) An assessment of whether the plan objectives within each element, as they relate to major issues, have been achieved. The report shall include, as appropriate, an identification as to whether unforeseen or unanticipated changes in circumstances have resulted in problems or opportunities with respect to major issues identified in each element and the social, economic, and environmental impacts of the issue.

(h) A brief assessment of successes and shortcomings related to each element of the plan.

(i) The identification of any actions or corrective measures, including whether plan amendments are anticipated to address the major issues identified and analyzed in the report. Such identification shall include, as appropriate, new population projections, new revised planning timeframes, a revised future conditions map or map series, an updated capital improvements element, and any new and revised goals, objectives, and policies for major issues identified within each element. This paragraph shall not require the submittal of the plan amendments with the evaluation and appraisal report.

(j) A summary of the public participation program and activities undertaken by the local government in preparing the report.

(k) The coordination of the comprehensive plan with existing public schools and those identified in the applicable educational facilities plan adopted pursuant to s. 1013.35. The assessment shall address, where relevant, the success or failure of the coordination of the future land use map and associated planned residential development with public schools and their capacities, as well as the joint decisionmaking processes engaged in by the local government and the school board in regard to establishing appropriate population projections and the planning and siting of public school facilities. For those counties or municipalities that do not have a public schools interlocal agreement or public school facilities element, the assessment shall determine whether the local government continues to meet the criteria of s. 163.3177(12). If the county or municipality determines that it no longer meets the criteria, it must adopt appropriate school concurrency goals, objectives, and policies in its plan amendments pursuant to the requirements of the public school facilities element, and enter into the existing interlocal agreement required by ss. 163.3177 (6)(h)2. and 163.31777 in order to fully participate in the school concurrency system.

(l) The extent to which the local government has been successful in identifying alternative water supply projects and traditional water supply projects, including conservation and reuse, necessary to meet the water needs identified in s. 373.0361(2)(a) within the local government's jurisdiction. The report must evaluate the degree to which the local government has implemented the work plan for building public, private, and regional water supply facilities, including development of alternative water supplies, identified in the element as necessary to serve existing and new development.

(m) If any of the jurisdiction of the local government is located within the coastal high-hazard area, an evaluation of whether any past reduction in land use density impairs the property rights of current residents when redevelopment occurs, including, but not limited to, redevelopment following a natural disaster. The property rights of current residents shall be balanced with public safety considerations. The local government must identify strategies to address redevelopment feasibility and the property rights of affected residents. These strategies may include the authorization of redevelopment up to the actual built density in existence on the property prior to the natural disaster or redevelopment.

(n) An assessment of whether the criteria adopted pursuant to s. 163.3177(6)(a) were successful in achieving compatibility with military installations.

(o) The extent to which a concurrency exception area designated pursuant to s. 163.3180(5), a concurrency management area designated pursuant to s. 163.3180(7), or a multimodal transportation district designated pursuant to s. 163.3180(15) has achieved the purpose for which it was created and otherwise complies with the provisions of s. 163.3180.

(p) An assessment of the extent to which changes are needed to develop a common methodology for measuring impacts on transportation facilities for the purpose of implementing its concurrency management system in coordination with the municipalities and counties, as appropriate pursuant to s. 163.3180(10).

(3) Voluntary scoping meetings may be conducted by each local government or several local governments within the same county that agree to meet together. Joint meetings among all local governments in a county are encouraged. All scoping meetings shall be completed at least 1 year prior to the established adoption date of the report. The purpose of the meetings shall be to distribute data and resources available to assist in the preparation of the report, to provide input on major issues in each community that should be addressed in the report, and to advise on the extent of the effort for the components of subsection (2). If scoping meetings are held, the local government shall invite each state and regional reviewing agency, as well as adjacent and other affected local governments. A preliminary list of new data and major issues that have emerged since the adoption of the original plan, or the most recent evaluation and appraisal report-based update amendments, should be developed by state and regional entities and involved local governments for distribution at the scoping meeting. For purposes of this subsection, a "scoping meeting" is a meeting conducted to determine the scope of review of the evaluation and appraisal report by parties to which the report relates.

(4) The local planning agency shall prepare the evaluation and appraisal report and shall make recommendations to the governing body regarding adoption of the proposed report. The local planning agency shall prepare the report in conformity with its public participation procedures adopted as required by s. 163.3181. During the preparation of the proposed report and prior to making any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed report. At a minimum, the format and content of the proposed report shall include a table of contents; numbered pages; element headings; section headings within elements; a list of included tables, maps, and figures; a title and sources for all included tables; a preparation date; and the name of the preparer. Where applicable, maps shall include major natural and artificial geographic features; city, county, and state lines; and a legend indicating a north arrow, map scale, and the date.

(5) Ninety days prior to the scheduled adoption date, the local government may provide a proposed evaluation and appraisal report to the state land planning agency and distribute copies to state and regional commenting agencies as prescribed by rule, adjacent jurisdictions, and interested citizens for review. All review comments, including comments by the state land planning agency, shall be transmitted to the local government and state land planning agency within 30 days after receipt of the proposed report.

²(6) The governing body, after considering the review comments and recommended changes, if any, shall adopt the evaluation and appraisal report by resolution or ordinance at a public hearing with public notice. The governing body shall adopt the report in conformity with its public participation procedures adopted as required by s. 163.3181. The local government shall submit to the state land planning agency three copies of the report, a transmittal letter indicating the dates of public hearings, and a copy of the adoption resolution or ordinance. The local government shall provide a copy of the report to the reviewing agencies which provided comments for the proposed report, or to all the reviewing agencies if a proposed report was not provided pursuant to subsection (5), including the adjacent local governments. Within 60 days after receipt, the state land planning agency shall review the adopted report and make a preliminary sufficiency determination that shall be forwarded by the agency to the local government for its consideration. The state land planning agency shall issue a final sufficiency determination within 90 days after receipt of the adopted evaluation and appraisal report.

(7) The intent of the evaluation and appraisal process is the preparation of a plan update that clearly and concisely achieves the purpose of this section. Toward this end, the sufficiency review of the state land planning agency shall concentrate on whether the evaluation and appraisal report sufficiently fulfills the components of subsection (2). If the state land planning agency determines that the report is insufficient, the governing body shall adopt a revision of the report and submit the revised report for review pursuant to subsection (6).

³(8) The state land planning agency may delegate the review of evaluation and appraisal reports, including all state land planning agency duties under subsections (4)-(7), to the appropriate regional planning council. When the review has been delegated to a regional planning council, any local government in the region may elect to have its report reviewed by the regional planning council rather than the state land planning agency. The state land planning agency shall by agreement provide for uniform and adequate review of reports and shall retain oversight for any delegation of review to a regional planning council.

(9) The state land planning agency may establish a phased schedule for adoption of reports. The schedule shall provide each local government at least 7 years from plan adoption or last established adoption date for a report and shall allot approximately one-seventh of the reports to any 1 year. In order to allow the municipalities to use data and analyses gathered by the counties, the state land planning agency shall schedule municipal report adoption dates between 1 year and 18 months later than the report adoption date for the county in which those municipalities are located. A local government may adopt its report no earlier than 90 days prior to the established adoption date. Small municipalities which were scheduled by chapter 9J-33, Florida Administrative Code, to adopt their evaluation and appraisal report after February 2, 1999, shall be rescheduled to adopt their report together with the other municipalities in their county as provided in this subsection.

(10) The governing body shall amend its comprehensive plan based on the recommendations in the report and shall update the comprehensive plan based on the components of subsection (2), pursuant to the provisions of ss. 163.3184, 163.3187, and 163.3189. Amendments to update a comprehensive plan based on the evaluation and appraisal report shall be adopted during a single amendment cycle within 18 months after the report is determined to be sufficient by the state land planning agency, except the state land planning agency may grant an extension for adoption of a portion of such amendments. The state land planning agency may grant a 6-month extension for the adoption of such amendments if the request is justified by good and sufficient cause as determined by the agency. An additional extension may also be granted if the request will result in greater coordination between transportation and land use, for the purposes of improving Florida's transportation system, as determined by the agency in coordination with the Metropolitan Planning Organization program. Beginning July 1, 2006, failure to timely adopt and transmit update amendments to the comprehensive plan based on the evaluation and appraisal report shall result in a local government being prohibited from adopting amendments to the comprehensive plan until the evaluation and appraisal report update amendments have been adopted and transmitted to the

state land planning agency. The prohibition on plan amendments shall commence when the update amendments to the comprehensive plan are past due. The comprehensive plan as amended shall be in compliance as defined in s. 163.3184(1)(b). Within 6 months after the effective date of the update amendments to the comprehensive plan, the local government shall provide to the state land planning agency and to all agencies designated by rule a complete copy of the updated comprehensive plan.

(11) The Administration Commission may impose the sanctions provided by s. 163.3184(11) against any local government that fails to adopt and submit a report, or that fails to implement its report through timely and sufficient amendments to its local plan, except for reasons of excusable delay or valid planning reasons agreed to by the state land planning agency or found present by the Administration Commission. Sanctions for untimely or insufficient plan amendments shall be prospective only and shall begin after a final order has been issued by the Administration Commission and a reasonable period of time has been allowed for the local government to comply with an adverse determination by the Administration Commission through adoption of plan amendments that are in compliance. The state land planning agency may initiate, and an affected person may intervene in, such a proceeding by filing a petition with the Division of Administrative Hearings, which shall appoint an administrative law judge and conduct a hearing pursuant to ss. 120.569 and 120.57(1) and shall submit a recommended order to the Administration Commission. The affected local government shall be a party to any such proceeding. The commission may implement this subsection by rule.

(12) The state land planning agency shall not adopt rules to implement this section, other than procedural rules.

(13) The state land planning agency shall regularly review the evaluation and appraisal report process and submit a report to the Governor, the Administration Commission, the Speaker of the House of Representatives, the President of the Senate, and the respective community affairs committees of the Senate and the House of Representatives. The first report shall be submitted by December 31, 2004, and subsequent reports shall be submitted every 5 years thereafter. At least 9 months before the due date of each report, the Secretary of Community Affairs shall appoint a technical committee of at least 15 members to assist in the preparation of the report. The membership of the technical committee shall consist of representatives of local governments, regional planning councils, the private sector, and environmental organizations. The report shall assess the effectiveness of the evaluation and appraisal report process.

History.--s. 11, ch. 75-257; s. 10, ch. 85-55; s. 11, ch. 86-191; s. 10, ch. 92-129; s. 13, ch. 93-206; s. 6, ch. 95-322; s. 29, ch. 96-410; s. 5, ch. 96-416; s. 4, ch. 98-146; ss. 6, 14, ch. 98-176; s. 5, ch. 98-258; s. 17, ch. 2000-158; s. 9, ch. 2002-296; s. 905, ch. 2002-387; s. 4, ch. 2004-230; s. 8, ch. 2005-290; s. 12, ch. 2005-291.

¹**Note.**--As amended and substantially reworded by s. 14, ch. 98-176. Former paragraph (12)(a) was also amended by s. 5, ch. 98-258, without reference to the substantial rewording of the section by s. 14, ch. 98-176. As amended by s. 5, ch. 98-258, only, paragraph (12)(a) reads:

(12)(a) The state land planning agency may enter into a written agreement with a municipality of fewer than 5,000 residents or a county with fewer than 75,000 residents so that such a jurisdiction may focus planning resources on selected issues or elements when updating its plan, if the local government includes such a request in its report and the agency approves the request. Approval of the request does not authorize the local government to repeal or render ineffective any existing portion or element of its local plan.

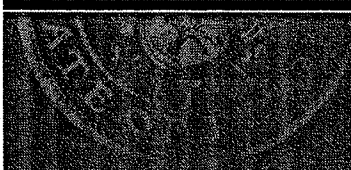
²**Note.**--As amended and substantially reworded by s. 14, ch. 98-176. Former subsection (9) was also amended by s. 4, ch. 98-146, without reference to the substantial rewording of the section by s. 14, ch. 98-176; material similar to that found in former subsection (9) is now located in subsection (6), as amended by s. 14, ch. 98-176. As amended by s. 4, ch. 98-146, only, subsection

(9), redesignated as subsection (6) to conform to the placement of material by s. 14, ch. 98-176, reads:

(6) The state land planning agency shall conduct a sufficiency review of each report to determine whether it has been submitted in a timely fashion and contains the prescribed components. The agency shall complete the sufficiency determination within 60 days of receipt of the report. The agency shall not conduct a compliance review. However, a local government may request that the department provide substantive comments regarding the report or addendum during the department's sufficiency review to assist the local government in the adoption of its plan amendments based on the evaluation and appraisal report. Comments provided during the sufficiency review are not binding on the local government or the department and will not supplant or limit the department's consistency review of the amendments based on the adopted evaluation and appraisal report. A request for comments must be made in writing by the local government and must be submitted at the same time the adopted report is submitted for sufficiency review.

³**Note.**--As amended and substantially reworded by s. 14, ch. 98-176. Former subsection (10) was also amended by s. 4, ch. 98-146, without reference to the substantial rewording of the section by s. 14, ch. 98-176; material similar to that found in former subsection (10) is now located in subsection (8), as amended by s. 14, ch. 98-176. As amended by s. 4, ch. 98-146, only, subsection (10), redesignated as subsection (8) to conform to the placement of material by s. 14, ch. 98-176, reads:

(8) The state land planning agency may delegate the review of reports to the appropriate regional planning council. When the review has been delegated to a regional planning council, any local government in the region, except for areas of critical state concern, may elect to have its report reviewed by the council rather than the agency. The agency shall adopt rules for accepting requests for delegation and for uniform and adequate review of reports. The agency shall retain oversight for any delegation of review to a regional planning council. Any plan amendment recommended by the report shall be reviewed by the agency pursuant to s. 163.3184 and be adopted by the local government pursuant to s. 163.3189.



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