

# Brevard County Comprehensive Plan Conservation Element Flood Hazard Areas & Wetlands

This Working Group was created for the express purpose of deliberating specific issues and providing recommended changes in a report to be presented to the Board of County Commissioners to policies that:

- Prohibit commercial and industrial land uses within wetlands; and
- Establish density and filled footprint restrictions within the 100-year, 25-year, 10-year, and annual St. Johns River floodplain.

Discussions are intended to identify options for policy flexibility through incentives such as smart growth principles and best management practices.

# Introductions

Board-approved participating organizations and appointees (primary, alternate) include:

- District 1 (Bob Massarelli, Neta Harris)
- District 2 (Mary Hillberg, Phil Barnes)
- District 3 (Don Simms, James Rosasco)
- District 4 (Jon Shepherd, Sharon Savastio)
- District 5 (Billy Kempfer, Cole Goatley)
- American Society of Civil Engineers, Cape Canaveral Branch (Bob Shaw, Carol Noble)
- FL Surveying and Mapping Society, of Land Surveyors - Space Coast Chapter (Drew Powshok, Robert Grassman)
- Home Builders and Contractors Association (Mike Moehle, Roger Molitor)
- Brevard County Farm Bureau (Tom Schuller, Lori Schuller)
- FL Cattleman's Association (James Payne, David Wright)
- FL Floodplain Managers Association (Jim Williams, Woody Rice)
- Brevard County Soil and Water Conservation District (Dave Millard, Bud Crisafulli)
- American Planning Association, Florida Chapter (Lisa Frazier, Ryan Morrell)
- Turtle Coast Sierra Club (Mary Sphar, Suzanne Valencia)
- Marine Resources Council (Jim Egan, Beth McMillan)
- Partnership for a Sustainable Future (Sandra Clinger, Shari Clark)
- Brevard Nature Alliance (Bob Day, Don George)

# Introductions (cont.)

Meeting Facilitator: Cheryl Gitlin, The Coaching Company, Inc.

Participating County staff members:

- Mel Scott, County Manager's Office, Assistant County Manager
- Ernie Brown, NRMO, Director (Currently on Coast Guard leave)
- Virginia Barker, Acting NRMO Director & Watershed Management, Program Manager
- Robin Sobrino, Planning & Development, Director
- Jim Fletcher, Agriculture & Extension Services Office, Director
- Amanda Elmore, NRMO, Environmental Resources Management, Program Manger
- Darcie McGee, NRMO, Environmental Resources Management, Environmental Permitting
- Robbyn Spratt, NRMO, Watershed Management, Engineer
- Rich Szpyrka, Public Works, Engineer
- Frank Skarvelis, Public Works, Floodplain Administrator
- Christine Lepore, County Attorney's Office, Assistant County Attorney
- Candy Hanselman, Planning & Development, Zoning Support Manager

St. Johns River Water Management District: John Juilianna, Service Center Director

# Meeting Information

Meetings will be held from 3 pm to 7 pm in the Florida Room, Building C, 3<sup>rd</sup> Floor, Viera Govt. Center, 2725 Judge Fran Jamieson Way on:

- Wed., July 21, 2010
- Mon., July, 26, 2010
- Mon., August 2, 2010
- Tues., August 10, 2010
- Mon., August 16, 2010

## General Information:

- An new web page dedicate to the Working Group will be launched this week. Please visit <http://natres.brevardcounty.us/> and look for a link on the right side of the screen.
- In general, hard copies of meeting documents will not be provided. Documents will be available for download online and will be projected during meetings.
- As requested by the Board, Staff is preparing matrices comparing relevant Volusia, Indian River, and Brevard County Policies. Once complete, this information will be posted online and presented at future meetings.
- Refreshments are not provided, however; you may bring your own as needed.

# Meeting Procedures

- The meetings will be facilitated by Cheryl Gitlin, of The Coaching Company, Inc. Staff will provide a technical and support role only. The facilitator is an independent contractor and has no interest in any of the policies being discussed. She shall be responsible for keeping discussions on topic and time management.

The following procedures are typical of Working Group protocols and are intended to keep meetings on task. The Group can discuss these procedures and make adjustments.

- Please sign in at every meeting.
- Quorum = 9 members (>50% of the Group). A meeting may be held with less than 9 members present, however; no votes may be cast.
- Speaking
  - Due to the size of the Group, only one member of each organization will participate in Group discussions at a time.
  - Please speak into the microphone.
  - Please allow others to finish speaking.
  - Please stay on topic.

# Meeting Procedures (cont.)

- Voting - The Group will vote on all proposed policy revisions.
  - One vote per issue is permitted per organization.
  - Per Board direction, at least 70% of the group (12 members) must be in agreement to make a "recommendation" to the Board. If between 9 and 11 members vote, there cannot be a "recommendation," even if the vote is unanimous.
  - All votes will be reported back to the Board.
- Public comment - All meetings are open to the public. The public will not participate in Group discussions but will have the opportunity to speak to the Group during each meeting.
  - Public comment will be taken prior to Group discussion.
  - Each speaker will be limited to 3 minutes.
  - Please speak into the podium microphone.
  - All speakers should fill out a pink speaker card
- Breaks will be at the will of the Facilitator & Group, but will include at least two 15 minute breaks.
- Be courteous to others.

# FL Sunshine Laws

All Group members are subject to Florida Sunshine Laws.

Presentation by Christine Lepore, Assistant County Attorney

# *Why does Brevard County have a Comprehensive Plan?*

Florida Statute, Title XI, Chapter 163, Part II - Growth Policy; County and Municipal Planning; Land Development Regulation

F.S. 163.3167 - Scope of Local Government Comprehensive Planning and Land Development Regulation Act:

- (1) The several incorporated municipalities and counties shall have power and responsibility:
  - (a) To plan for their future development and growth.
  - (b) To adopt and amend comprehensive plans, or elements or portions thereof, to guide their future development and growth.
  - (c) To implement adopted or amended comprehensive plans by the adoption of appropriate land development regulations or elements thereof.
  - (d) To establish, support, and maintain administrative instruments and procedures to carry out the provisions and purposes of this act.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0163/titl0163.htm&StatuteYear=2008&Title=-%3E2008-%3EChapter%20163](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0163/titl0163.htm&StatuteYear=2008&Title=-%3E2008-%3EChapter%20163)

# *Why does Brevard County have a Comprehensive Plan?*

Florida Administrative Code 9J-5 (Minimum Criteria for Review of Local Government Comprehensive Plans and Plan Amendments, Evaluation and Appraisal Reports, Land Development Regulations and Determinations of Compliance)

F.A.C. 9J-5.001 - Purpose:

- (1) This chapter establishes minimum criteria for the preparation, review, and determination of compliance of comprehensive plans and plan amendments pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, F.S. This chapter establishes criteria implementing the legislative mandate that local comprehensive plans be consistent with the appropriate strategic regional policy plan and the State Comprehensive Plan, and recognizes the major role that local government will play, in accordance with that mandate, in accomplishing the goals and policies of the appropriate comprehensive regional policy plan and the State Comprehensive Plan.

F.A.C. 9J-5.012 - Coastal Management:

The purpose of this element is to plan for and where appropriate restrict development activities where such activities would damage or destroy coastal resources, and protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

F.A.C. 9J-5.013 - Conservation Element:

The purpose of the conservation element is to promote the conservation, use and protection of natural resources.

<https://www.flrules.org/gateway/ChapterHome.asp?Chapter=9J-5>

# *Why does Brevard County regulate Flood Hazard Areas?*

## 9J-5.012 (Coastal Element) Policy Governing Flood Hazard Areas:

- (2) Coastal Management Data And Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C...
  - (b) Inventories and analyses of the effect of the future land uses as required to be shown on the future land use map or map series on the natural resources in the coastal planning area shall be prepared including: vegetative cover, including wetlands; areas subject to coastal flooding; wildlife habitats; and living marine resources. Maps shall be prepared of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern to local government...
- (3) Requirements for Coastal Management Goals, Objectives, and Policies...
  - (c) The element shall contain one or more policies for each objective and shall identify regulatory or management techniques for...
    - 3. General hazard mitigation including regulation of building practices, floodplains, beach and dune alteration, stormwater management, sanitary sewer and septic tanks, and land use to reduce the exposure of human life and public and private property to natural hazards; and incorporating the recommendations of the hazard mitigation annex of the local peacetime emergency plan and applicable existing interagency hazard mitigation reports. Incorporating recommendations from interagency hazard mitigation reports shall be at the discretion of the local government...

# *Why does Brevard County regulate Flood Hazard Areas?*

## 9J-5.013 (Conservation Element) Policy Governing Flood Hazard Areas:

(1) Conservation Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The following natural resources, where present within the local government's boundaries, shall be identified and analyzed:

...2. Floodplains...

(b) For each of the above natural resources, existing commercial, recreational or conservation uses, known pollution problems including hazardous wastes and the potential for conservation, use or protection shall be identified.

(2) Requirements for Conservation Goals, Objectives and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which conservation programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(d), F.S., and which:

...2. Conserve, appropriately use and protect the quality and quantity of current and projected water sources and waters that flow into estuarine waters or oceanic waters...

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

...6. Protection and conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats...

...9. Designation of environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element...

# *Why does Brevard County regulate floodplains?*

1) To safeguard life and property

Floods are the single most prevalent and costliest natural disasters.



# *Why does Brevard County regulate floodplains?*

## 2) Required by the Federal government

### The National Flood Insurance Act of 1968:

- Established the National Flood Insurance Program (NFIP)
- County participation provides availability of NFIP coverage



# *Why does Brevard County regulate floodplains?*

## 3) Saves money

### Effective flood mitigation:

- Saves the U.S. over \$1 billion annually
- Reduces social & economic disruption and environmental damage
- Community Rating System (CRS)
  - rating based upon credit for exceeding minimum Federal criteria
  - results in reduced flood insurance premiums for residents
  - current estimated annual savings:

**\$1,164,249.54**

# *What will we be discussing with regard to floodplains?*

## Objective 4 - Flood Hazard Areas

Reduce loss of flood storage capacity and reduce risk to life and property by continuing to apply regulations which minimize the impact of development within flood hazard areas.

This Working Group was created for the express purpose of deliberating specific issues and providing recommended changes in a report to be presented to the Board of County Commissioners to policies that establish density and filled footprint restrictions within the 100-year, 25-year, 10-year, and annual St. Johns River floodplain. Discussions are intended to identify options for policy flexibility through incentives such as smart growth principles and best management practices.

# What & Where is the St. Johns Riverine Floodplain?

**Floodplains (general):** Any area susceptible to being inundated by water from any source; including areas which may or may not have a direct hydrological connection to a surface water body.

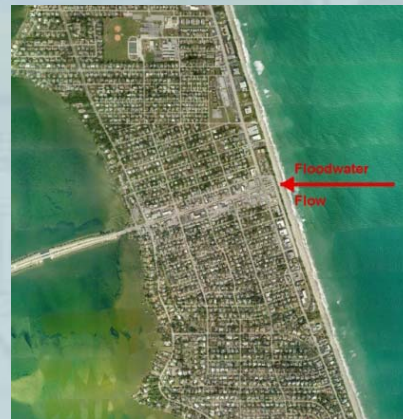
**Riverine:** The area susceptible to being inundated by waters from the St. Johns River, freshwater lakes, and freshwater tributaries to the Indian River Lagoon System from a given storm event.



**Estuarine:** The area susceptible to being inundated by waters from the Indian River Lagoon System from a given storm event.



**Coastal:** The area susceptible to being inundated by waters from the Atlantic Ocean from a given storm event.



**Isolated:** The area susceptible to being inundated by waters which are not riverine, estuarine, or coastal from a given storm event.



# *Why does Brevard County regulate Wetlands?*

9J-5.012 (Coastal Element) Primary Policy Governing Wetlands (additional applicable policies can be found at the link above):

- (2) Coastal Management Data And Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C...
  - (b) Inventories and analyses of the effect of the future land uses as required to be shown on the future land use map or map series on the natural resources in the coastal planning area shall be prepared including: vegetative cover, including wetlands; areas subject to coastal flooding; wildlife habitats; and living marine resources. Maps shall be prepared of vegetative cover, wildlife habitat, areas subject to coastal flooding, and other areas of special concern to local government...
- (3) Requirements for Coastal Management Goals, Objectives, and Policies...
  - (a) The coastal management element shall contain one or more goal statements which establish the long term end toward which regulatory and management efforts are directed. These shall reflect the stated intent of the Legislature in enacting Section 163.3178, F.S., which is that local governments in their comprehensive plans restrict development activities that would damage or destroy coastal resources, and protect human life and limit public expenditures in areas subject to destruction by natural disasters.
  - (b) The element shall contain one or more specific objectives for each goal statement which address the requirements of paragraph 163.3177(6)(g) and Section 163.3178, F.S., and which:
    - 1. Protect, conserve, or enhance remaining coastal wetlands, living marine resources, coastal barriers, and wildlife habitat;

Continued below...

# *Why does Brevard County regulate Wetlands?*

## 9J-5.012 (Coastal Element) Primary Policy Governing Wetlands (cont.):

- (c) The element shall contain one or more policies for each objective and shall identify regulatory or management techniques for...
1. Limiting the specific impacts and cumulative impacts of development or redevelopment upon wetlands, water quality, water quantity, wildlife habitat, living marine resources, and beach and dune systems;
  2. Restoration or enhancement of disturbed or degraded natural resources including beaches and dunes, estuaries, wetlands, and drainage systems; and programs to mitigate future disruptions or degradations...
  15. Demonstrating how the local government will coordinate with existing resource protection plans such as resource planning and management plans, aquatic preserve management plans, and estuarine sanctuary plans.

# *Why does Brevard County regulate Wetlands?*

9J-5.013 (Conservation Element) Policy Governing Wetlands (additional applicable policies can be found at the link above):

(1) Conservation Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to subsection 9J-5.005(2), F.A.C.

(a) The following natural resources, where present within the local government's boundaries, shall be identified and analyzed:

1. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters and air, including information on quality of the resource available from and classified by the Florida Department of Environmental Regulation...

(b) For each of the above natural resources, existing commercial, recreational or conservation uses, known pollution problems including hazardous wastes and the potential for conservation, use or protection shall be identified.

(2) Requirements for Conservation Goals, Objectives and Policies.

(c) The element shall contain one or more policies for each objective which address implementation activities for the:

5. Restriction of activities known to adversely affect the survival of endangered and threatened wildlife;
6. Protection and conservation of the natural functions of existing soils, fisheries, wildlife habitats, rivers, bays, lakes, floodplains, harbors, wetlands including estuarine marshes, freshwater beaches and shores, and marine habitats...
8. Continuing cooperation with adjacent local governments to conserve, appropriately use, or protect unique vegetative communities located within more than one local jurisdiction;
9. Designation of environmentally sensitive lands for protection based on locally determined criteria which further the goals and objectives of the conservation element...

Continued below...

# *Why does Brevard County regulate Wetlands?*

## 9J-5.013 (Conservation Element) Policy Governing Wetlands (cont.):

### (3) Policies Addressing the Protection and Conservation of Wetlands.

- (a) Wetlands and the natural functions of wetlands shall be protected and conserved. The adequate and appropriate protection and conservation of wetlands shall be accomplished through a comprehensive planning process which includes consideration of the types, values, functions, sizes, conditions and locations of wetlands, and which is based on supporting data and analysis.
- (b) Future land uses which are incompatible with the protection and conservation of wetlands and wetland functions shall be directed away from wetlands. The type, intensity or density, extent, distribution and location of allowable land uses and the types, values, functions, sizes, conditions and locations of wetlands are land use factors which shall be considered when directing incompatible land uses away from wetlands. Land uses shall be distributed in a manner that minimizes the effect and impact on wetlands. The protection and conservation of wetlands by the direction of incompatible land uses away from wetlands shall occur in combination with other goals, objectives and policies in the comprehensive plan. Where incompatible land uses are allowed to occur, mitigation shall be considered as one means to compensate for loss of wetlands functions.

# Wetland Facts

Wetlands serve valuable functions that benefit everyone, including:

- Cleaning and filtering pollutants from surface waters
- Storing water from storms or runoff
- Preventing flood damage to developed lands
- Recharging groundwater
- Serving as nurseries for saltwater and freshwater fish and shellfish that have commercial, recreational, and ecological value
- Serving as the natural habitat for a variety of fish, wildlife and plants, including rare, threatened, endangered and endemic (native) species



# *What will we be discussing with regard to wetlands?*

## Objective 5 - Wetlands

Preserve, protect, restore, and replace wetlands to achieve no net loss of functional wetlands in Brevard County after September, 1990. The County shall ensure the protection of wetlands and wetland functional values by prioritizing protective activities with avoidance of impacts as the first priority, minimization of impacts as the second priority, and mitigation for impacts as the third priority.

This Working Group was created for the express purpose of deliberating specific issues and providing recommended changes in a report to be presented to the Board of County Commissioners to policies that prohibit commercial and industrial land uses within wetlands. Discussions are intended to identify options for policy flexibility through incentives such as smart growth principles and best management practices.