

MEMORANDUM

TO: OHPA Commissioners

FROM: Jeb T. Branham

DATE: March 5, 2019

REGARDING: *Comprehensive planning process and OHPA*

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ISSUE: What is OHPA's role in the City of Fernandina Beach's comprehensive planning process?

BACKGROUND FACTS: The City of Fernandina Beach may be considering a complete re-write of the existing Port Facilities element of its comprehensive plan. The City posts the 2030 Comprehensive Plan as its current plan on its website. It appears the City adopted the plan in December 2011. The 2030 Comprehensive Plan contains a Port Facilities element. A proposed re-write of that element purports to heavily regulate and likely constrain OHPA's port operations.

ANALYSIS: The State of Florida requires local governments to engage in a comprehensive planning process. State statutes regulate the process and say what comprehensive plans must contain. Fla. Stat. § 163.3191(1) requires local governments to "evaluate [their] comprehensive plan to determine if plan amendments are necessary to reflect changes in state requirements . . ." at least every seven years. Updates to address "changes in local conditions" are not required, but they are encouraged. Fla. Stat. § 163.3191(3). There have not been changes in state requirements that would *require* Fernandina Beach to rewrite its Port Facilities Element.

Fla. Stat. § 311.14 governs port planning. It requires each port to "develop a strategic plan with a 10-year horizon . . ." Fla. Stat. § 311.14(2). OHPA created a Strategic Master Plan in 2014 and updated it via Resolution 2014-4. Fla. Stat. § 311.41(2)(e) says "[t]o the extent feasible, the port strategic plan must be consistent with the local government comprehensive plans."

Several state statutes address comprehensive planning as it pertains to ports. Fla. Stat. § 163.3177(6)(b)(2)(b) requires Fernandina Beach to address seaport planning within the transportation element of the City's comprehensive plan. Fla. Stat. § 163.3178(2)(k) also

requires the City to include OHPA's Strategic Master Plan within the coastal management element of its comprehensive plan. Under this statute, the port's strategic plan is supposed to include a map of land uses and habitats, an impact analysis of future development, a drainage systems analysis, hazard mitigation, beach and dune protection, safe development, public access to the shore, financial assurances for new development, and identification of techniques to mitigate development impacts. Some of these elements clearly do not apply to OHPA, such as beach and dune protection and public shore access. Others could perhaps be addressed more specifically. Regardless, OHPA's strategic plan generally complies with state statutes, and updates are not mandatory at this time.

In my view, the proposed Port Facilities Element is neither required by nor consistent with state comprehensive planning law. If OHPA and Fernandina Beach cannot agree on the contents of Fernandina Beach's comprehensive plan as it pertains to OHPA, Fla. Stat. § 163.3178(2)(k) requires the submission of the dispute to the North Florida Regional Council for mediation. Beyond that, Fla. Stat. § 163.3184(5)(a) requires that challenges to comprehensive plan amendments be filed with the Florida Division of Administrative Hearings within 30 days of adoption.