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Commission combats state growth management law

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A new growth management law in Florida has become a Rorschach test.

Some look at the law and see a chance for more transportation funding in the area. Others look at it as a chance to make development laws fairer statewide.

Collier County officials look at the law and see Satan.

The county's simmering rage against the growth management law jumped to a boiling point recently when commissioners instructed their staff to begin working on a rate-of-growth ordinance. If passed, this would restrict the amount of growth that can occur in Collier each year.

County government officials contend the growth management law will damage their system for balancing growth with providing services, known as concurrency management.

Commissioners' main complaint is that the growth management bill doesn't let them create a tougher concurrency program than the state allows. Collier County's program is tougher than the state's, so commissioners fear the local program will become moot and they'll have to abide by weaker state requirements as the new law is implemented.

"If the state Legislature won't allow local government in Collier County to properly manage growth, then we should establish by ordinance a means to limit growth each year," Collier Commission Chairman Fred Coyle said.

Many disagree with the commission view.

Al Zichella, incoming president of the Collier Building Industry Association and a member of a state impact fee task force, said a rate-of-growth ordinance would be an overreaction.

Zichella doesn't believe the new growth management law damages the county's concurrency system.

"I respect Commissioner Coyle but I simply disagree with him on this issue," Zichella said. "I have not seen a reading of (the growth management law) that supports his conclusions."

Coyle was instrumental in creating the county's concurrency management system and acknowledges that the issue is personal with him.

The chairman believes local government should be in charge of managing growth with minimal interference from the state. He becomes visibly angry when he talks about the growth management bill.

"This is one of the worst laws I have ever seen and I'm not going to let the state push us around," Coyle said. "A rate-of-growth ordinance is the only option we have left."

Scott Coulombe, director of the Collier Building Industry Association, said everyone in Collier County will be hurt by such an ordinance.

"They're going to lose a lot of money if this ends up being passed," Coulombe said. "I don't understand the logic behind it."

The consensus of the development industry is that the growth management law will not damage the county's concurrency system, Coulombe said.

Eric Poole, a legislative liaison with the Florida Association of Counties, said Collier is in unique position.

"There aren't many counties that have a concurrency management system stronger than what the state mandates (within the new law)," Poole said. "That's why Collier and a couple of other counties are in an interesting position."

His reading of the legislation suggests it will render Collier's concurrency system ineffective, Poole said.

Implementation

Even though Collier County commissioners are on record as supporting a rate-of-growth amendment, questions remain on how one will be enacted.

Joe Schmitt, administrator of the Collier County Community Development and Environmental Services department, said the county needs to establish what is known as a "rational nexus" to justify a rate-of-growth ordinance.

That means the county needs to establish a good reason for the ordinance that will stand up in court. Collier must prove its reasons for the ordinance benefit the public in a legally justifiable way.

County staff now is researching ways to create that rational nexus, Schmitt said.

Coyle said the rational nexus should state that new development isn't allowed until the infrastructure is in place to deal with it.

Since the state law will damage the ability to collect impact fees, the county won't install new infrastructure as quickly as before. The ordinance will reflect that reality, Coyle said.

A rate-of-growth ordinance would have to be done as an amendment to the county's growth management plan. Those amendments usually take a year to 18 months to enact, Schmitt said.

Poole said the only such ordinance he is aware of in Florida exists in Monroe County, within the Florida Keys.

Evacuation concerns during hurricanes are the primary reason why growth is limited in the Keys.

"Other communities have discussed doing this," Poole said. "But I'm not aware of any other counties that have actually done it."

Davis Boulevard

Ever since the growth management legislation became law, Collier officials say, they have been looking for definitive proof that it would harm the area. They appeared to have found it recently.

The Florida Department of Transportation has announced that a planned widening of Davis Boulevard was being removed from the state's five-year work plan. Construction funding for Davis Boulevard has been the first priority of the Collier Metropolitan Planning Organization since 1999.

County officials wondered why they were losing money when the growth management law pledged $7.5 billion in construction improvements over the next decade.

"FDOT's decision reinforces my long-held belief that the growth management bill signed into law in June, while laudable in its stated goals, falls far short in meeting the needs of our community," Coyle said. "The bill promises $7.5 billion for infrastructure improvements over 10 years, yet funding for a critical project within our transportation network is eliminated just five months after the bill-signing ceremony."

But DOT officials said Coyle is mistaken.

DOT spokeswoman Debbie Tower said the growth management bill had nothing to do with the money for Davis Boulevard being cut.

"The cost of transportation projects has significantly increased in the last year," Tower said. "The cost of materials has skyrocketed."

The money taken away from the Davis Boulevard project went to other projects in the state. That money is a separate fund from the $7.5 billion allocated under the new law, Tower said.

"We considered (the new growth management law) to be very good news for Southwest Florida," Tower said. "It allocated over $100 million for the widening of Interstate 75."

When informed of Tower's comments, Coyle didn't back down.

"We were repeatedly told this growth management bill would lead to more transportation funds," Coyle said. "Instead we're getting a lot less money."

Don't try to tell him there's no correlation, Coyle said.

"I look at the aggregate," he said. "It's all money from the state."

Collier Transportation Administrator Norman Feder said the growth management law was a factor in the county's losing the Davis Boulevard dollars.

Under the new law, more attention is being paid to roads that are part of the state's strategic intermodal system. That system includes interstate roads.

Davis Boulevard wasn't given the priority it had received in previous five-year plans, Feder said.

Collier is lobbying legislators for a glitch bill that will correct flaws in the original growth management law. Coyle and others want that corrective bill to say that local government can have a tougher growth management law than the state requires.

They also want it spelled out that local government officials can have flexibility when they collect impact fees. The county now collects all its impact fees before construction occurs.

If that glitch bill passes, the county will not need a rate-of-growth ordinance. But Coyle said he isn't optimistic that legislation will be passed to fix the problems.