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January 28, 2011

Ms. Karen Jumonville
Director, City of Tallahassee Growth Management Department
435 North Macomb Street, 3rd Floor
Tallahassee, Florida 32301

Dear Karen:

This letter is a follow-up to your January 11, 2011 letter (attached) that outlined the City's comments and recommendations regarding the County's initial draft of the proposed minimum County-wide environmental standards ordinance. A revised draft ordinance is attached for your reference.

The proposed ordinance will implement Phase 1 of a two phase process intended to fully implement the County Charter Amendment regarding minimum County-wide environmental standards that was approved during last year's general election. Also, this letter will serve to outline in advance of our February 4, 2011 meeting the County's proposal for proceeding with the implementation of the Phase 2 process.

Following are the County's responses to the five issues that were raised in your referenced letter. Your comments are noted, followed by the County's response. Please note that the County's responses are consistent with our discussion and subsequent positions that were outlined during our January 14, 2011 meeting with City staff regarding the initial draft ordinance.

1. *Deletion of the portion of Section 10-4.106(1), that states, "[u]ntil such time as both unincorporated and incorporated environmental management regulations can be merged into a unified set of regulations..." The Charter amendment requires the establishment of **minimum** environmental standards, not a **unified** set of regulations.*

   We agree that the language in the Charter amendment requires that the County establish *minimum* environmental standards. Therefore, in the attached revised draft ordinance, references to a "unified" ordinance were removed and replaced with the "minimum environmental standards" language from the Charter Amendment.

2. *Deletion of Section 10-4.106(1)(a). As currently written, this Section would require, as an interim measure, the County's Lake Jackson water quality treatment standards and the Bradfordville Study Area water quality treatment standards to be applied inside the City limits. Our concern is that it is not clear that these sections are more stringent than the City's regulations. While they may be more stringent for water quality, it appears they are less stringent for flood protection due to long recovery times. Without a thorough analysis of the specific differences between the City and County standards for*

these areas, we cannot adequately determine which standards or portions thereof are more stringent. City staff recommends that a thorough analysis be conducted as part of Phase 2 in an effort to ensure that we have thoroughly addressed how water quality and flood control regulations work together.

As we discussed, and consistent with the consensus that was reached during our January 14th meeting, the attached draft has been revised to extend the effective date of that section from April 1, 2011 to August 1, 2011, to address the City's concerns that additional study was needed to determine the effects of County-wide adoption of the Bradfordville Study Area and Lake Jackson storm water standards, and to allow the City additional time to implement the standards. The County shares the City's concerns regarding flood control, and currently has code provisions similar to the City's provisions for rate control that are added to the water quality treatment component of the required storm water management facility. These provisions include 90-hour recovery times, two-year restricted discharge rates, and rate control for all storms up to and including the 100-year return frequency. It is our position that these flood protection regulations for both City and County are flexible enough to address the requirements for no off-site flooding impacts.

3. *Include in Section 10-4.106(1)(b), after reference to the City's Chapter 5, the following clause: "as it may be amended from time to time." The "as amended" clause is particularly important because it clarifies that any ordinances adopted by the City to amend Chapter 5 of the Land Development Code during Phase 1 will be included in the County's Environmental Management Act.*

As requested, Section 10-4.106(1)(b) has been amended to include the phrase "as may be amended from time to time" to allow the City to amend its ordinances during the term of the interim ordinance.

4. *Deletion of Section 10-4.106(2). As currently written, this section would require adoption of the County's environmental regulations County-wide (including the incorporated areas) on April 1, 2012, if unified regulations have not been adopted prior to that date. This provision does not satisfy the intent of the Charter amendment since, as stated above, the Charter amendment does not require a unified ordinance. Rather, the Charter amendment requires the establishment of minimum County-wide environmental standards. We recommend that City and County staffs develop (as part of Phase 1) a process including reasonable timeframes for implementing Phase 2 of this initiative, rather than implementing the County's regulations by default in what we fear is an insufficient amount of time to implement Phase 2. Both the City and the County staffs should be afforded adequate time to thoroughly analyze and integrate the two environmental codes in a way that accommodates the rural nature of the county and the more intense urban nature of the incorporated area within the Urban Services Area (USA). Developing the timeframes as part of Phase 1 would show a good faith effort to comply with the spirit of the Charter amendment without arbitrarily inserting standards before we can complete a thorough analysis of their impacts.*

We are sensitive to the City's concerns regarding the short timeframe for the implementation of Phase 2; however, the County believes that it is important for the local governments to show a good faith effort to implement the voter-approved amendment. That being noted, we fully appreciate the difficult task that faces our respective local governments and anticipate that Phase 2 may not be fully implemented within a year of the effective date of the Charter Amendment. Therefore, to memorialize the County's commitment to cooperation, we have revised the draft

ordinance to specifically provide for an extension of the Phase 1 expiration date and included a requirement that the Board of County Commissioners consider such an extension at the request of either City or County staff.

5. *City staff supports an ordinance that maintains the* status quo *for the interim period by incorporating Chapter 5 of the city's Land Development Code, as it may be amended from time to time, into the County's Environmental Management Act as Phase 1 of the development of minimum County-wide environmental standards. In addition, language should be included to explicitly state that during the interim phase (Phase 1), the City Growth Management Department will continue to enforce Chapter 5, as amended, and handle applications for development within the City limits.*

   As we discussed during our January 14th meeting, a new section, Section 10-4.106(2), has been added to the draft ordinance to explicitly state that the City will retain permitting and enforcement jurisdiction over the incorporated area during the interim period.

As previously noted, our primary goal is to achieve implementation of the voter-approved Charter Amendment in a cooperative and collaborative manner with the City. Additionally, it is our intention to phase in the implementation in a manner that will not impact ongoing or planned development projects in the County or the City. We believe the attached revised draft ordinance represents a good faith effort by the County to address the issues and concerns regarding our initial draft ordinance that were noted in your January 11, 2011 letter. Furthermore, we believe that the revised ordinance reflects the County's ongoing commitment to work with the City in a cooperative and good faith manner to facilitate the implementation of the Charter Amendment.

With regard to the Phase 2 process, County staff intends to agenda to the Board of County Commissioners (BCC) for their review and approval the proposed Citizen's Committee membership, including those members recommended by the City. The recommended Committee would include Roger Wynn, Judy Hayden, Kathy Burke, Cliff Lamb, and Pam Hall. Additionally, we plan to provide the BCC with a proposed methodology for achieving the implementation of Phase 2 by April 2012. Tentatively, we are proposing a methodology that would include designating smaller City/County staff working groups to review, compare and recommend minimum standards for the various regulatory areas that are outlined in both the City and County environmental regulations. It is anticipated that these smaller staff working groups would meet twice a month for six months (February/March – July/August 2011), or less if the process is completed in advance. This would allow up to twelve meetings, which should provide adequate opportunity for the process to be comprehensive. Additionally, we would anticipate that staff consensus concerning many of the regulatory areas will be achieved in a much shorter time frame.

After the City/County staff working groups have completed this process, we would recommend that the Administrator/Manager designated staff committee meet with the Citizen's Committee to review, discuss and finalize the recommendations to be incorporated into the proposed County-wide minimum environmental regulations ordinance. It is anticipated that this collaborative review and recommendations process, which would include participation from the Citizen's Committee, would be initiated no later than July 2011 (or sooner based on the progress of the smaller staff working groups), include twice monthly meetings, and should result in a recommended draft ordinance by end of 2011. It is anticipated that the resulting draft ordinance would be scheduled for review by the Planning Commission for Comprehensive Plan consistency in February of 2012, and the two required BCC adoption public hearings be completed before April 2012.

A recommended timeline for Phase 2 implementation is attached, and will be discussed at our next meeting scheduled for February 4, 2011. The County believes this recommended methodology for Phase 2 implementation provides a collaborative, inclusive, and transparent approach that can be successfully accomplished within the April, 2012 time frame that was established in previous correspondence between the County Administrator and the City Manager.

We believe that a County-wide minimum environmental regulations ordinance will benefit the entire community by providing consistency, reliability and uniformity. The citizens of our community voted to support this approach with their approval of the County Charter Amendment, and we look forward to working with you and your staff on this important initiative. If you have any questions, please call me.

Sincerely,

DAVID R. MCDEVITT

David McDevitt
Director

Attachments:
1. Letter from Karen Jumonville to David McDevitt dated January 11, 2011
2. Revised Phase 1 Implementation Ordinance
3. County-wide Minimum Environmental Regulations Ordinance Implementation Timeline

cc: Parwez Alam, County Administrator
Anita Favors Thompson, City Manager
Linda Hudson, Senior Assistant City Manager
Hetal Desai, Assistant City Attorney
Wayne Tedder, TLCPD Director
Gabe Menendez, City of Tallahassee Public Works Director
Cynthia Barber, City of Tallahassee Environmental Policy & Energy Services Director
Fred Goodrow, TLCPD Comprehensive Planning Environmental Administrator
David Henry, City of Tallahassee Manager of Stormwater Planning
Steve Palmer, City of Tallahassee Growth Management Program Engineer
Laura Youmans, Assistant County Attorney
Vince Long, Deputy County Administrator
Tony Park, Leon County Public Works Director
John Kraynak, Leon County Environmental Compliance Director
Nawfal Ezzagaghi, Leon County Environmental Review Supervisor
Theresa Heiker, Leon County Stormwater Management Coordinator