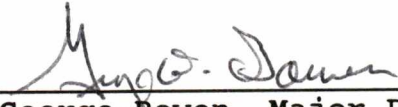
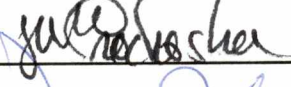
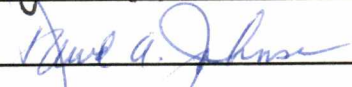
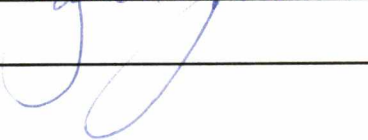


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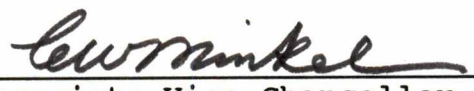
I am submitting herewith a thesis written by Michael W. Calleja entitled "Volusia Growth Management Commission: A Study of Intergovernmental Cooperation and Coordination in Growth Management." I have examined the final copy of this thesis for form and content and recommend that it be accepted in partial fulfillment of the requirements for the degree of Master of Science in Planning.


George Bowen, Major Professor

We have read this thesis
and recommend its acceptance:

Accepted for the Council:


Associate Vice Chancellor
and Dean of The Graduate School

VOLUSIA GROWTH MANAGEMENT COMMISSION: A STUDY OF
INTERGOVERNMENTAL COOPERATION AND COORDINATION
IN GROWTH MANAGEMENT

A Thesis
Presented for the
Master of Science in Planning
Degree
The University of Tennessee, Knoxville

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ABSTRACT

Growth Management has been around for approximately forty years. States such as Florida are now mandating that all jurisdictions develop comprehensive growth management plans that will protect the environment and require that infrastructure be commensurate with development. They have made the plans regulatory documents instead of long range visionary plans. However, the State of Florida has overlooked the fact that these regulatory documents can create major adverse impacts on adjacent jurisdictions and cause deterioration of intergovernmental cooperation and coordination.

One jurisdiction, Volusia County, Florida, had the foresight to recognize the potential adverse impacts that would result from the State's new growth management legislation. The fifteen jurisdictions in the County took it upon themselves to develop a commission that would be able to improve intergovernmental cooperation and coordination and make the plans of the jurisdictions consistent with one another.

This venture was the Volusia Growth Management Commission. This paper provides the history and framework of the Volusia Growth Management Commission and looks at the issue of how the

Volusia Growth Management Commission has been successful in improving intergovernmental cooperation, coordination and consistency among comprehensive plans.

TABLE OF CONTENTS

Chapter	Page
I. INTRODUCTION	1
PURPOSE OF STUDY	3
ORGANIZATION OF THE STUDY	3
INVOLVEMENT WITH COMMISSION	5
RESEARCH METHODOLOGY	6
UNSTRUCTURED INTERVIEW QUESTIONS AND PROCESS	8
SAMPLE GROUPS	12
Unstructured Interview	12
Volusia Growth Management Commission Sample Group	12
Public Official Sample Group	13
"PARTICIPANT - AS - OBSERVER"	14
OTHER RESEARCH	15
II. EVOLUTION OF GROWTH MANAGEMENT	17
GROWTH MANAGEMENT LEGISLATION OF THE 1970'S	24
GROWTH MANAGEMENT LEGISLATION OF THE 1980'S	30
FLORIDA MINIMUM CRITERIA RULE 9J-5	32
ELMS III LEGISLATION FOR THE 1990'S	35
III. VOLUSIA COUNTY	38
HOME RULE CHARTER	41
CREATION OF THE COMMISSION	43

Chapter	Page
IV. VOLUSIA GROWTH MANAGEMENT COMMISSION	52
PURPOSE AND INTENT	52
CASE STUDIES BEFORE THE COMMISSION	54
Orange City Mixed Use	55
City of Deland Twelve Oaks and Royal Oaks . . .	57
City of Daytona Beach Indigo Property	59
Volusia County Southeast Activity Center . .	60
City of Oak Hill	61
Backlogged or Constrained Roadway Degradation Factors	62
APPLICATION FOR CERTIFICATION	64
STAFF REVIEW REQUIREMENTS AND PUBLIC NOTIFICATION	66
Notification Stage	66
Staff Review Stage	68
Public Hearing Stage	69
INTERGOVERNMENTAL PLANNING CONCERNS	71
V. RESULTS OF THE RESEARCH	75
INTERVIEW RESULTS	76
Results of Public Officials Surveyed	76
Results of Commission Members Surveyed . . .	81
PARTICIPANT - AS - OBSERVER"	83
Results of Public Official Sample	84
Results of Commission Member Sample	88
OTHER RESEARCH	89

Chapter	Page
VI. CONCLUSIONS	91
INTERVIEW CONCLUSIONS	92
"PARTICIPANT - AS - OBSERVER" CONCLUSIONS	93
CONCLUSIONS FROM OTHER RESEARCH	95
FINAL CONCLUSION	96
RECOMMENDATIONS	96
State Recommendations	96
Local Recommendations	97
FURTHER RESEARCH	98
BIBLIOGRAPHY	101
I. BOOKS	101
II. PUBLIC DOCUMENTS	103
III. ARTICLES AND LECTURES	104
VITA	105

CHAPTER I

INTRODUCTION

Over the last twenty years, there has been a large volume of research about the implementation of growth management at the state level. The impetus of this legislation has been to establish state mandates for local governments for the guidance of growth (development) and the protection of limited natural resources. One of the results of such legislation has been that comprehensive plans have become "top down" regulatory mechanisms with state legislatures and agencies making the regulations and local governments implementing comprehensive plans that meet these regulations. These "top down" regulatory mechanisms have resulted in state, regional and local growth management plans being consistent through the hierarchy of Florida's governmental structure because all the plans have to meet the same regulatory requirements. However, the legislation makes no attempt to provide for consistency between plans of adjacent jurisdictions. It is one thing to establish consistency by making jurisdictions meet legislated requirements, and it is quite another to have comprehensive plans that are consistent with one another between governmental jurisdictions, city to city or city to county.

As with other states that have adopted state wide growth management planning, the "top-down" approach to comprehensive planning in the State of Florida has made the ultimate goal of the local jurisdiction to engage in comprehensive planning. Comprehensive planning means meeting the State's imposed growth management regulations which may not include a visioning process on intergovernmental cooperation, coordination and consistency among comprehensive plans. This has given the local jurisdictions no option but to litigate when a jurisdiction determines that the comprehensive plan of an adjacent jurisdiction will adversely impact its plan.

However, Volusia County, Florida and its fourteen municipalities recognized the importance of intergovernmental cooperation and coordination, and consistency between comprehensive plans as it related to the State's new growth management legislation. As a result of this foresight, in 1986 Volusia County and the fourteen municipalities adopted a commission to oversee and promote intergovernmental cooperation and coordination and to establish consistency between comprehensive plans. This body is known in Volusia County as the Volusia Growth Management Commission.

PURPOSE OF STUDY

The purpose of the study was to address the research question "Has the Volusia Growth Management Commission been successful in establishing consistency among comprehensive plans in Volusia County and has it promoted intergovernmental cooperation and coordination?" Consistency in this paper is defined as having comprehensive plans that do not adversely impact on adjacent jurisdictions. It does not mean that comprehensive plans have to be identical. Intergovernmental cooperation and coordination means that jurisdictions are communicating with each other in the development and amendment of their comprehensive plans.

ORGANIZATION OF THE STUDY

Chapter II provides a brief overview of the history and evolution of growth management and concludes with a cursory review of the growth management movement and regulations enacted by the State of Florida that have a direct impact on the form and function of the Volusia Growth Management Commission. It includes an overview of the growth management movement in order to understand the role and significance of the Volusia Growth Management Commission in Volusia County. Chapter III is a brief overview of Volusia County and its municipalities. The purpose of this chapter is to provide a

basis for understanding the jurisdictions with which the Volusia Growth Management Commission interacts. This overview includes information on the location, character and size of the County and the distribution of the population by jurisdiction.

Chapter IV provides an in-depth review of the form and function of the Volusia Growth Management Commission and its role in the growth management review process. This chapter provides the basis for understanding the regulatory framework within which the Volusia Growth Management Commission makes findings. This chapter provides the foundation for evaluating the Volusia Growth Management Commission and obtaining answers to the research question.

Chapter V contains the results of the unstructured interview process and compares them to the observations made of those interviewed. In addition, this chapter sets the stage for the conclusions reached in Chapter VI.

Chapter VI details the conclusions from the research and demonstrates how the conclusions answer the research question. In addition, the chapter provides recommendations for agencies in Florida and suggests other research to be conducted to further understand intergovernmental cooperation and coordination as it relates to comprehensive planning.

INVOLVEMENT WITH COMMISSION

Before proceeding, the involvement of the writer of this thesis with the Volusia Growth Management Commission needs to be explained. The firm that is this writer's current employer, Miller-Sellen Associates, Inc. has been the planning consultant to the Commission since its conception under the direction of one of the firm's principals Mr. James A. Sellen.

Miller-Sellen Associates, Inc.'s involvement has been as staff planners in reviewing all the comprehensive plans and plan amendments that have been submitted from the jurisdictions in Volusia County to the Volusia Growth Management Commission over the last seven years. This work effort has included reviewing the comprehensive plans and plan amendments, writing additional information requests to the jurisdictions based on review of the comprehensive plans or plan amendments, attending all meetings between the Volusia Growth Management Commission staff and jurisdictions under review to negotiate compromises, writing all reports which explain staffs' concerns, recommending remedial action to achieve a certification of consistency for the comprehensive plan or plan amendment, and representing the Volusia Growth Management Commission as its staff planner at public hearings. This direct involvement with the Volusia Growth Management

Commission has provided great in-sight and understanding of its successes and failures over the last four years.

However, because of Miller-Sellen Associates, Inc. continued involvement with the Volusia Growth Management Commission, it was necessary to maintain anonymity and confidentiality of the parties who were involved in this research. Without such anonymity and confidentiality, problems could arise between interviewees. In addition, without anonymity there is the possibility that the staff of the Volusia Growth Management Commission could compromise its rapport with Commission members or participating jurisdictions.

RESEARCH METHODOLOGY

To obtain answers to the research question, it was necessary to use methodologies that provided both the flexibility in research procedures and the ability to establish sufficient parameters where the results would have some validity. The research methodologies that provided sufficient flexibility in reaching the answers were a combination of the unstructured interview and the "participant - as - observer." These research methodologies used in tandem provided the ability to minimize the influences that Miller-Sellen Associates, Inc. involvement with the Volusia Growth Management Commission may have created. Miller-Sellen Associates, Inc. provide staff

support to the Volusia Growth Management Commission. As an employee of Miller-Sellen Associates, Inc., the author was a "participant - as - observer" for the past four years. The unstructured interview methodology provided the flexibility in guiding individuals in addressing the research question and then the basis of why the individual responded to the research question the way they did will be established. Other research methodologies do not permit such flexibility. In addition, because of Miller-Sellen Associates, Inc.'s involvement with the Volusia Growth Management Commission, there was the possibility that the individual being interviewed would answer questions favorably. Therefore, in addition to the unstructured interviews a "participant - as - observer" approach was also used to answer the research question. The "participant - as - observer" method provided the ability to observe if the responses of the individuals were consistent with their actions and the actions taken by the Volusia Growth Management Commission. In addition, since Miller-Sellen Associates, Inc. has been the planning staff for the Volusia Growth Management Commission, the "participant - as - observer" research was suited for this case because of the direct involvement of this researcher with the Volusia Growth Management Commission. The results of these two research methodologies provided the data necessary to provide answers to the research question and develop conclusions. The two methodologies used in tandem provided opportunities to

validate the actions of the individual to the answers given in the unstructured interview and visa versa.

In addition to the above, research was conducted to determine if the Volusia Growth Management Commission had furthered intergovernmental cooperation and coordination by reducing the incidence of litigation between jurisdictions in Volusia County over comprehensive planning issues. One of the main reasons that the Volusia Growth Management Commission was established was to provide the jurisdictions another avenue in which to pursue consistency between plans without having to resort to ligation. The question to be answered was "Has there been any litigation between jurisdictions over Comprehensive Plan issues since the establishment of the Volusia Growth Management Commission?" In this instance the unstructured interview with the attorney to the Volusia Growth Management Commission was conducted to obtain the answer.

UNSTRUCTURED INTERVIEW QUESTIONS AND PROCESS

The unstructured interview process "is an interaction between an interviewer and a respondent in which the interviewer has a general plan of inquiry but not a specific set of questions that must be asked in particular words or in a particular

order".¹ The unstructured interviews were conducted by this semi-unstructured basis with each question being asked setting the stage to progressively build to the last set of questions that ultimately answered the research question. The respondent's knowledge of the Volusia Growth Management Commission determined which questions to be asked. For example, it would be appropriate to ask the question to a respondent that was not directly involved with the Volusia Growth Management Commission if they were aware of the Volusia Growth Management Commission. However, such a question would not be appropriate if the respondent was a member of the Volusia Growth Management Commission. In addition, the knowledge of the Volusia Growth Management Commission or even with the State's Growth Management Legislation had a direct effect on the depth of the questions asked. However, the line of questioning was always to determine whether the respondent could answer questions related to the function of the Volusia Growth Management Commission and its successes.

The first line of questioning was to determine if the respondent had sufficient background to render an opinion on the Volusia Growth Management Commission. The line of questioning started by asking the respondent about his/her familiarity with the growth management legislation in Florida

¹Babbie, Earl; The Practice of Social Research, fourth ed.; Wadsworth Publishing Co., Belmont, California, 1973. p. 243.

and/or the land use planning in Volusia County. The questioning ended by asking the respondent about his/her familiarity with the form and function of the Volusia Growth Management Commission in Volusia County.

The second line of questions were asked to determine how the respondent became knowledgeable and; what, if any, interaction has the respondent had with the Volusia Growth Management Commission. This line of questioning was important in providing some insight into the respondent's possible biases towards the Volusia Growth Management Commission. These biases, to the extent possible, were brought to the forefront and likely came from the opinions of the respondents positive or negative interaction with the Volusia Growth Management Commission. For example, if the respondent has had a negative or positive experience with an action taken by the Volusia Growth Management Commission, the respondent would likely reflect the results of the action.

The last line of questions were geared towards answering the research question. After establishing whether or not the respondent thinks the Volusia Growth Management Commission has or has not accomplished its purpose, the questioning changed to determine on what basis the respondent made that determination. From this line of questioning, it was possible to find out if the individual felt that the Volusia Growth

Management Commission had or had not met its purpose and why the respondent answered in such a manner. This not only answered the research question but helped the respondent justify the answer.

The above line of questioning was undertaken with care to avoid the possibility of the interviewer directing the respondent in his/her answers and avoiding the possibility of putting the respondent in an intimidating situation if the respondent was not fully knowledgeable about the Volusia Growth Management Commission.

The unstructured interview process has a weakness because it is impossible to isolate completely every possible bias that an individual may have when addressing a question, even to the point where their answer may change from day-to-day depending on the events that occurred that day or even a week before. Therefore, in order to obtain the best results, it was necessary to define to the extent possible the external influences on the sample group and/or define the individuals within the sample group so that the interview questions could be fashioned in a manner that best fit the individuals in the sample group and the results of the interviews could then be understood on a individual basis. To such an end, the following is a detailed review of the sample groups.

SAMPLE GROUPS

Unstructured Interview

The respondents to the unstructured interview consisted of two different sample groups. The two sample groups were determined on the basis of their involvement and/or relationship with the Volusia Growth Management Commission. The first sample group consisted of the Volusia Growth Management Commission members. The second sample group included public officials and/or staff of the jurisdictions that have become involved with the Volusia Growth Management Commission. Most of this sample group consisted of planning directors from the jurisdictions in Volusia County and planning consultants representing the smaller jurisdictions that do not have a planning staff.

Volusia Growth Management Commission Sample Group

The Volusia Growth Management Commission is comprised of eighteen voting members from the fifteen jurisdictions in Volusia County and non-voting representatives from the Volusia County School Board, the St. Johns River Water Management District, and the Volusia County Business Development Corporation.

Public Official Sample Group

The second group interviewed were representatives from some of the jurisdictions in Volusia County. The most logical group of employees to be interviewed were those planning directors and/or personnel who represented a jurisdiction in such a capacity that required them to submit an application to the Volusia Growth Management Commission and, therefore, to have worked with the Commission staff to obtain approval of their comprehensive plan amendment applications. Of the fifteen jurisdictions in Volusia County, nine have in house planning staffs. The other six jurisdictions have consultants who perform their comprehensive planning work. The jurisdictions that do not have planning staffs seldom come before the Volusia Growth Management Commission. A review of the Volusia Growth Management Commission files revealed that the jurisdictions without planning staff have only come before the Volusia Growth Management Commission an average of one time in the past three years. The only reason these jurisdictions came before the Volusia Growth Management Commission was because these jurisdictions had to submit their comprehensive plans to the State Department of Community Affairs for compliance review as stated in Florida Statute Chapter 163 and Florida Administrative Code 9J-5. Any plan or plan amendment submittal to the State Department of Community Affairs must be

simultaneously submitted with an application to the Volusia Growth Management Commission for consistency review.

"PARTICIPANT - AS - OBSERVER"

Over the last four years it has been possible for the author to observe the public official and Volusia Growth Management Commission member sample groups because of the direct involvement of his employer, Miller-Sellen Associates, Inc., in the Volusia Growth Management Commission. As a member of Miller-Sellen Associates, Inc., the author was directly involved in activities of the Volusia Growth Management Commission. Therefore, the results of the unstructured interview process could be directly compared to the actions taken by the individuals within the sample groups.

The participant - as - observer approach worked well because of the interaction process that has resulted over the last four years. Mr. James Sellen has been the lead person on many controversial issues that have arisen between jurisdictions and with the Volusia Growth Management Commission staff. This has provided the opportunity to observe and listen to the interaction taking place without being directly involved in the point of dispute. In addition, in those instances where the author's involvement was directly with members of the sample groups it was only as the staff planner representing

the opinion of Miller-Sellen Associates, Inc. or the Volusia Growth Management Commission. At the public hearings, it was possible to observe the actions of both the Volusia Growth Management Commission member and the public official sample groups.

OTHER RESEARCH

In addition to using the unstructured interview and "participant - as - observer" methodologies to answer the research question, the unstructured interview process was also used to find out whether there has been any litigation concerning comprehensive plan issues in Volusia County in the last seven years. If a determination could be made that there has been no litigation since the adoption of the Volusia Growth Management Commission, it would provide further evidence upon which to render an opinion on the research question.

As will be established in Chapter IV, one of the main reasons that the Volusia Charter Review Commission proposed the creation of the Volusia Growth Management Commission was to reduce the instance of litigation regarding comprehensive planning related issues by the jurisdictions in Volusia County. Therefore, it should be possible to prove the effectiveness of the Volusia Growth Management Commission in its effort to promote intergovernmental cooperation and

coordination by finding out how many suits have been filed by jurisdictions in Volusia County since the creation of the Volusia Growth Management Commission.

To find out how many law suits have been filed, an interview with the attorney for the Volusia Growth Management Commission was undertaken. This interview shed light on the litigation issue and provided additional information upon which an answer to the research question could be obtained.

CHAPTER II

EVOLUTION OF GROWTH MANAGEMENT

At the turn of the century, approximately 25% of the population of the United States lived in areas considered to be urban. The other 75% of the population lived in the rural areas of the country with most of this population obtaining their livelihood directly from agricultural pursuits. Within these urban areas, only thirty-seven municipalities had populations that were over 100,000 people. By 1950, only fifty years later, approximately 60% of the population of the United States resided in urbanized areas. In these urban areas, municipalities with populations of over 100,000 people had increased from thirty-seven to one-hundred and forty-eight. This trend of urbanization continued throughout the 1960's and 70's; and by 1980, 75% of the total population in the United States was considered to be living in urbanized areas. By this time, an additional two-hundred and twelve cities surpassed the 100,000 mark in population bringing the total to three-hundred and sixty-six cities.² In addition, besides the rapid increase in the number of cities with populations over 100,000, the populations within the cities were also increasing rapidly. At the turn of the century only three

²John McMahan, Property Development, 2nd. ed. New York, N.Y.: McGraw Hill Publishing Company, 1989, pp. 7-9.

cities had populations over 1 million. By 1980, seven cities had populations over 1 million, and of those, half had populations in excess of 3 million people.³

This mass movement of people from rural to urban areas resulted in the concentration of people in and around cities. In the late 1800's and early to mid 1900's, these rapidly growing urban areas were the result of several movements of which the most recognized and written about is the Industrial Revolution. This movement of people from rural areas where the main occupation was agriculture to urban areas where the emphasis was on factory labor, not only changed the demographics of the United States but also the way of life for its people and the cities in which they lived.

Cities before the Industrial Revolution were mostly small towns that served the basic needs of the agricultural community that surrounded it except for the cities that had deep water ports along the coasts where there was movement of commerce between countries. As this mass movement of people continued, cities were ill prepared to deal with the needs and demands of its new residents. As a result, the living conditions and, therefore, the quality of life within the cities began to deteriorate. As this situation continued to

³U.S. Bureau of Census, Historical Statistics of the U.S.; 1975 ed., Page 11.

worsen, segments of the population started to look for an alternative to city life.

Those segments of the population that could afford to move began to recognize that better living conditions and a higher standard of living could be achieved living on the outskirts of the city but still within easy driving distance to be able to reap the benefits that the cities offered including employment opportunities. These areas are now referred to as the suburbs. The suburbs initially consisted of mostly single family residential housing at a very low density of approximately one unit per acre.

This movement to the periphery of the city accelerated with the advent of the mass production of the automobile which made movement over a long distance affordable for the general population. Therefore, it was possible for a large segment of the workforce to work in the city but to live in the suburbs that surrounded the city. This outward sprawl has generally been characterized as a "system of multi-centered, low density regions" of mainly single family residential housing.⁴ These outward sprawling residential areas in turn provided a market for other activities (i.e. commercial, service, office, activity centers, etc...). These new high intensity uses

⁴David R. Godschalk, Constitutional Issues of Growth Management, Chicago, Illinois: ASPO Press, 1977, p. 8

subsequently acted as the nuclei - mini city centers - around which residential communities would grow creating further urban sprawl. The result is new nucleated high intensity use centers that have form around the city. This continuous progression outward is expected to continue until the factors fueling this urban sprawl are eliminated.

Over the last fifty years, the development of the suburbs has contributed to the urbanization of large expanses of virgin land. Besides adversely affecting our natural environment, this type of sprawl has not been economical for the public sector in its attempt to provide infrastructure (i.e. the provision of water, wastewater, transportation systems, education, etc..) to these areas. Thus it has often been unable to meet the demands of its residents. The ill effects of this urban sprawl are impacting the quality of life of the residents in the cities and suburbs and has left many municipalities in the United States on the verge of bankruptcy. The residents of these cities and suburbs have become frustrated and are demanding that something be done to slow the increase in taxes and eliminate the further deterioration of the infrastructure. The residents in the cities negatively affected by urban sprawl have begun to demand that the elected officials within the cities and outlying suburbs start to correct some of the problems created

by movement of people into the suburbs and out of the downtown areas.

At issue were two main concerns. One was the continually rising taxes without any additional benefits. The other was the continued deterioration of the infrastructure which supported the population of these urban areas in particular, the increasing traffic on streets and pollution, the overcrowding of schools, destruction of the environment and deterioration of living conditions. However, the general public was neither willing nor ready to pay for the cost to make the necessary improvements to correct the situation and improve the quality of life. Therefore, urban areas started to seek possible alternatives not to solve the already existing problems but to minimize or eliminate any further negative impacts from additional suburban growth.

Cities were in a "no win" situation. Cities could neither obtain the necessary funding to make the costly infrastructure improvements nor did they have the ability to stop growth. The solution for most of the urban areas that were faced with this situation was two fold. First, some of these urbanized areas have started to change the way that services are being provided to the general public in new developments. In the past, it was policy for the public sector to provide services and facilities as new development was approved. Now many of

these urban areas are requiring new development to pay for additional impacts it will create for the municipality or other governmental entities for public services and facilities. This includes requiring the developer to extend or provide for, at their cost, the necessary infrastructure to service the development and pay impact fees or user fees for the cost of the provision of those services. Second, in conjunction with the above, these urban areas have begun to develop approaches to guiding growth. Most of these approaches involved some form of planning like Comprehensive Growth Management Planning. The legislation and planning that arose from this movement are generally aimed at influencing the "primary characteristics of growth; rate, type, location, and quantity."⁵ The resulting legislation and techniques used to implement that have arisen from this movement have been termed Growth Management.

Growth management evolved at the municipal level in areas of the country that were experiencing significant growth pressures. At the forefront of this movement were cities, like Ramapo, New York; Boulder, Colorado; Petaluma, California; and Boca Raton, Florida. These cities led the way in adopting legislation that made planning tools such as comprehensive plans regulatory in nature. This is significant in that it has changed planning from just serving as an

⁵ Godschalk, pp. 7-10.

exercise in providing guidance to being able to regulate development. The growth management movement has continued to grow in popularity.

Within the last twenty years, states such as California, Oregon, and Florida have enacted state wide growth management legislation to control the intense population pressures and urban sprawl on a state wide level. The legislation at the state level has usually been enacted through mandating jurisdictional comprehensive growth management plans at the regional, county, and municipal level.

Effective comprehensive growth management at all levels of government is still in its infancy and many problems have yet to be understood and resolved. Governmental jurisdictions have generally taken the approach of solving problems as they arise because of the nature of the complexities and time constraints involved. One of the main problems that is just becoming evident from this movement is the effect of growth management on adjacent jurisdictions. Jurisdictions are beginning to recognize that if growth management is to have any degree of success it must either transcend jurisdictional boundaries or governmental entities must establish consistent comprehensive growth management plans that deal with intra and extra jurisdictional growth problems. However, recognition of that

fact and finding an equitable solution for these intra-jurisdictional problems is another matter.

The main problem in the establishment of this intergovernmental coordination stems from the established mind set of the jurisdictional governments towards the process of funding. The public sector tends to mimic a free enterprise system with its continual competition for funds, political power, prestige, etc.. The competition for funding makes jurisdictions rivals, and cooperation is forthcoming only when it is in the mutual best interest of competing jurisdictions. Competition between public jurisdictions is counter productive to the intergovernmental cooperation and coordination necessary for the implementation of a successful comprehensive and integrated growth management system.

GROWTH MANAGEMENT LEGISLATION OF THE 1970'S

Since the 1950's, Florida has experienced tremendous growth pressures. In 1950 Florida was the twentieth most populated state.⁶ By the mid-1970's, Florida had grown to the eighth most populated state. In the 1980's, Florida became the fourth most populated state with a population of over twelve

⁶John M. DeGrove, Land Growth & Politics, Washington, D.C.: Planners Press, 1984, p. 272.

and a half million people.⁷ This rate of growth, the fastest in the nation, is expected to continue into the 1990's.

This tremendous growth rate, as much as three-thousand five hundred people per week in the late 1960's, 1970's, and 1980's has had severe repercussions on Florida's natural resources and the provision by local jurisdictions of adequate public services.⁸ In the early 1970's, several factors contributed to a change in attitude on the part of many Floridians towards new development. The severe droughts in 1970 and 1971, destruction of natural resources, and inability of public infrastructure to keep up with demand caused a change in attitude toward growth. The residents of Florida began to voice concern and demand that legislation be developed that mandates growth control to deal with the adverse effects of rapid and uncontrolled development.

In 1972, the first attempt at introducing landmark growth management legislation to cope with development was debated and enacted by the Florida Legislature. It was primarily enacted for the purpose of eliminating the "negative

⁷Degrove, p. 1.

⁸James C. Nicholas, "The Fiscal and Economic Dimensions of Growth Management in Florida," Joint Center for Environmental and Urban Problems Florida Atlantic University: Boca Raton, Florida, January 1983, p.2.

externalities of development."⁹ The first Act that was passed, The Environmental Land and Water Management Act (Chapter 380 Florida Statutes), provided the state with the mechanism to review developments of regional impact, identify potential adverse effects of these developments on natural resources and mandate changes as a condition of approval for the proposed development.¹⁰ The second Act, the 1972 Water Resources Act (Chapter 373 Florida Statute) established water management districts that would be commissioned to protect and maintain one of Florida's main assets, water and its related functions, safe for future use.¹¹ The third Act passed that year, The Land Conservation Act (Chapter 259 Florida Statute) enabled the government at the state level to purchase environmentally sensitive lands that local jurisdictions could not afford to acquire that were being threatened by development and/or pollution.¹² The last major Act passed in 1972 to control growth was the State Comprehensive Planning Act. This Act required the development of a state comprehensive planning guide for Florida's counties and municipalities which established goals, objectives, and

⁹Nicholas, p.3.

¹⁰Gary W. Malamud, Boomtown Communities, New York, N.Y.: Van Nostrand Reinhold Company, 1984, p. 208.

¹¹Nicholas, p.2.

¹²Malamud, p.2.

policies for Florida's future growth pattern.¹³ In 1975 The Local Government Comprehensive Planning Act (Chapter 163 Florida Statute) was passed which required all 461 counties and cities to develop and implement a comprehensive growth management plan for their jurisdictions.¹⁴ These five Acts passed between 1972-1975 provided the first wave of growth management reform and established the foundation on which Florida would build its current Comprehensive Growth Management Legislation.

By the early 1980's, it became apparent that the legislation of the 1970's was not achieving its intended purpose. Several factors contributed to the lack of ability to implement some of the aspects of this legislation. The four major areas determined to be deficient in legislation to provide the necessary mechanism to make growth management a viable component of planning in Florida were; "policy, consistency, implementability, and funding."¹⁵

¹³Degrove, p.2.

¹⁴Degrove, p.2.

¹⁵Florida Atlantic University Institute of Government & Joint Center for Environmental and Urban Problems. "Local Planning Implementing the 1985 Growth Management Initiative," Florida Atlantic University: Boca Raton, Florida, 1987, p.4

From the outset, the 1970's legislation did not have the support from a majority of the members of the Florida State Legislature. The first major problem was that the State Comprehensive Planning Act, supposedly the backbone of the growth management program, even though adopted by the Florida legislature had no legal basis to force compliance. Also, the language within the document was weak and vague as to its intended direction (goals, objectives, and policies).¹⁶ These major problems made the legislation ineffective in providing the necessary enforceable guidelines to make growth management effective.

The second major problem with this earlier legislation was the oversight of not establishing a policy of consistency from the "top-down and bottom-up". Growth Management plans fashioned with the "top-down and bottom-up" concept ensure that the elements of the plan and its subcomponents are consistent both internally and with other comprehensive plans within the governmental hierarchy. The goals, objectives, and policies in Florida's Comprehensive Plan were not internally consistent or complementary; therefore, they were not consistent throughout the different levels of government. The concept of consistency across the state, regional and local governmental entities was further handicapped by the State Comprehensive Plan Act by the

¹⁶Earl R. Hahn, "A Brief History of Florida Planning From 1933 to the Present," Third National Conference on American planning History, Cincinnati, Ohio, 15 Dec. 1989, p. 5.

Florida Legislature. The Act left the state unable to "review and comment" on comprehensive plans in general, much less provide the ability to establish consistency.¹⁷ The lack of statutory provisions provided the review agencies with insufficient authority and resources to assure correction of internal inconsistencies in their comprehensive plans.

The third major deficiency of the 1970's growth management legislation was the lack of linkage between the growth management policy plan and the practical application of that plan.¹⁸ Growth management policy plans must have an adequate structure for the implementation of the plan. This linkage between policy and implementability is especially important. Often, when considering the provisions of an adequate plan, it resulted in the plan being useless to the jurisdiction because its policies could not be implemented.

The last major shortcoming in the earlier growth management movement was the inadequate funding to make growth management work.¹⁹ With the Florida Legislature's approval of an inadequate Comprehensive Planning Act, the power to secure the

¹⁷Hahn, p.5.

¹⁸Hahn, p.8.

¹⁹Douglas R. Porter., ed. Growth Management: Keeping on Target?, Washington D.C.: The Urban Land Institute, 1986, p.171.

necessary funding for different agencies to appropriately administer the develop and review of the growth management plans (i.e. State Land Planning Agency, Regional Planning Council and local governments) was also inadequate.

GROWTH MANAGEMENT LEGISLATION OF THE 1980'S

In the early 1980's, Floridians again pressured their representatives to develop and implement more stringent growth management legislation. The result was that the main focus of the 1984-1986 legislative sessions was correcting problems associated with the planning Acts of the 1970's. The 1984 through 1986 legislative sessions, led to the adoption of the 1984 State and Regional Planning Act, the 1986 Growth Management Act and revision of the 1970's State Comprehensive Plan Act.

The revised State Comprehensive Plan Act addressed the problem of mandated guidance at the state level. The Act now provides the backbone of the state's growth management goals, objectives and policies through the provision of twenty-five specific goal statements and policies to guide the state's long-range economic, social and environmental future growth.²⁰ The adoption of this Act legally binds Florida's counties and municipalities to develop growth management plans

²⁰Porter, ed., p.171

addressing the goals, statements and policies of the State Comprehensive Plan Act.

The lack of legislative mandate to establish consistency from the "top-down and bottom-up" was remedied through the new review process. The 1986 Growth Management Act and Florida Administrative Code 9J-5 Minimum Criteria Rule provided the framework for consistency review. Also, this legislation raised the Department of Community Affairs to "watch dog" status giving it the power to review comprehensive plans and any amendments to those plans and certify the growth management plans as being consistent with the State's goals and policies. In addition, the Department of Community Affairs also has been given enforcement powers to mandate to local governments changes to their Comprehensive Plans. This power comes in the form of a punitive measure. The withholding of state funding.²¹ Florida's Minimum Criteria Rule 9J-5, developed and adopted by the Department of Community Affairs in compliance with the goals and policies of the State Comprehensive Plan Act, established "the required minimum content of the Comprehensive Plan elements and the basis for the Department of Community Affairs' compliance review process."²²

²¹Florida Atlantic University, pp.47-50.

²²Florida Atlantic University, pp. 26-28.

The legislature, now fully behind the idea of growth management, provided funding to accomplish its growth management goals. The Department of Community Affairs with adequate funding could now hire the staff to review the comprehensive plans of Florida's counties and municipalities. In addition, it also allowed the Department of Community Affairs to financially assist jurisdictions in developing their comprehensive growth management plans according to state legislation.

FLORIDA MINIMUM CRITERIA RULE 9J-5

The Florida Administrative Code Minimum Criteria Rule 9J-5 establishes the basic format and minimum criteria for the development of comprehensive plans by the 461 jurisdictions in the State of Florida. The rules require that the foundation of the comprehensive growth management plans be based on the current and forecasted residential and seasonal population of a jurisdiction.²³ This data and analysis is the basis upon which the rest of the Comprehensive Plan is developed.

Once the population data has been established, the remainder of the plan provides the data and analysis for the existing infrastructure, the necessary improvements and the timing and

²³Florida Administrative Code, Chapter 9J-5 "Minimum Criteria for Review of Local Government Comprehensive Plans and Determination of Compliance," 1985.

cost of those improvements needed to meet the future demands of the projected population, and the future land use plan that will accommodate the projected population and its needs. These elements provide the backbone of the plan and are required to be internally consistent and achieve the ultimate goal of providing a means to meet the needs of a jurisdiction's future population. Below is a list of the required elements for a comprehensive plan and the main purpose of each as established in Florida Statute Chapter 9J-5:

1.Future Land Use Element - This element establishes the goals, objectives and policies for the future growth of the jurisdiction and the designation of the jurisdictions future land use pattern.

2.Traffic Circulation Element - This element establishes the desired and projected transportation system in the jurisdiction.

3.Housing Element - This element establishes the need for housing within the jurisdiction and how that jurisdiction will meet the identified need.

4.Sanitary Sewer, Solid Waste, Drainage, Potable Water and Natural Groundwater Aquifer Recharge Element - This element establishes the need of public services and facilities and how those facilities and services correlate to the projected future population and land use pattern.

5.Conservation Element - This element is to promote the protection and conservation of the environment and yet still meet the goals of the community.

6.Intergovernmental Element - This element is to promote intergovernmental cooperation and coordination.

7.Open Space and Recreation Element - This element is to provide the basis for a comprehensive recreation and open space plan.

8.Capital Improvement Element - This element evaluates the need for infrastructure improvements to meet the identified

deficiencies of the other elements and is required to quantify the cost of the needed facilities and establish a funding source for those identified needed improvements.

The Comprehensive plan has become an implementation tool under Florida Legislation. Once the jurisdiction has completed its Comprehensive Plan and it is submitted to the Department of Community Affairs for review and approval, the jurisdiction adopts the Plan. After the comprehensive plan is adopted, "all development undertaken by, and all actions taken in regard to development orders by governmental agencies ... shall be consistent with such plan."²⁴ In addition, "all land development regulations enacted or amended shall be consistent with the comprehensive plan."²⁵ Any attempt by a jurisdiction to approve development or adopt land development regulations that are not consistent with the comprehensive plan is considered to be not in compliance with Florida's Statutes. The State has the authority to take measures such as imposing sanctions to remedy the non-compliance. This has changed the form and function of comprehensive plans and planning from being visionary to being regulatory. The task of comprehensive planning is no longer simply to provide a vision of what the residents want for their jurisdiction but now also has the task of complying with and conforming to regulations

²⁴1987 Florida Statute, Chapter 163.3194 "Legal status of comprehensive plan. p.920.

²⁵1987 Florida Statute, Chapter 163.3194 "Legal status of comprehensive plan. p.920.

established by the State. It has changed the role of planners in the State of Florida from being visionaries to regulators. The plan in essence has become an implementation tool.

ELMS III LEGISLATION FOR THE 1990'S

Since the revision of the Growth Management Act in 1985, the 461 jurisdictions in the state of Florida have been developing Comprehensive Growth Management Plans based on the requirements established by Florida Administrative Code 9J-5 submitting the plans for review and comment by the Department of Community Affairs and adopting and implementing the Comprehensive Plan Amendments by the individual jurisdictions. Over the last seven years, most of the jurisdictions in Florida have completed and adopted their comprehensive growth management plans.

With most of the jurisdictions in Florida now operating with adopted Comprehensive plans that need to be updated every five years, some of the shortcomings of the legislation have become evident. In November of 1991, Governor Lawton Chiles commissioned the third Environmental Land Management Study Committee to review the operation and implementation of Florida's growth management legislation to determine the extent of the shortcomings of legislation and to make recommendations to the Florida legislature to remedy the

legislation's shortcomings.

On December 15, 1992, the Environmental Land Management Study Committee sent the Governor a final report that included 174 recommendations for changes to the 1984-1986 growth management legislation. The recommendations centered around eight major topics:²⁶

- 1.The State Role in Planning and Growth Management
- 2.The Regional Planning Council Role in Planning and Growth Management
- 3.Local Planning and Intergovernmental Coordination
- 4.Evaluation and Appraisal of Local Planning
- 5.Concurrency and Public Facilities
- 6.Chapter 380, Florida Statute (Developments of Regional Impact and Areas of Critical State Concern)
- 7.Coastal Management
- 8.Land Preservation

One of the major recurring themes of these recommendations was the necessity to improve intergovernmental cooperation and coordination. It was evident to the third Environmental Land Management Study Committee that the "top-down and bottom-up" approach to consistency as established by the growth management legislation did not provide or mandate the same for local jurisdictions. It became apparent to the Committee that

²⁶Florida House of Representatives. "House of Representatives Committee on Community Affairs: Final Bill Analysis & Economic Impact Statement," 9 July 1993.

there was little interaction between adjacent or affected jurisdictions concerning impacts of these comprehensive plans on one another. This lack of coordination and cooperation was creating conflicts between the goals, objectives and policies of adjacent jurisdictions. To remedy this situation, the Environmental Land Management Study Committee recommended that "a process for identifying impacts on adjacent areas, for mitigating those impacts, and for a dispute resolution process for disputes pertaining to those impacts" be mandated as part of the new legislation.

In 1993, the Florida Legislature adopted most of the changes proposed by the Environmental Land Management Study Committee. Currently, the Department of Community Affairs is drafting minimum requirements to implement the new Growth Management Legislation. The Department of Community Affairs anticipates that its rule making should be complete by the middle of 1994 just before all the jurisdictions in the State of Florida have to start the five year updates of their plans.

CHAPTER III

VOLUSIA COUNTY

Volusia County is one of sixty-seven counties in the State of Florida. It is located north of Cape Canaveral (space shuttle launch area) on Florida's east coast approximately two hours south of Jacksonville, and 20 minutes east north east of Orlando, Florida (Disney World). The County is home to the Daytona 500 car race and the City of Daytona Beach, a popular spring break destination for college students. A map has been provided on the following page that shows the location of Volusia County to the other counties in Florida.

Volusia County is 10th in overall land area of the 67 counties in Florida with approximately 1,113 square miles within its jurisdiction.²⁷ The County is blessed with approximately 20 miles of shoreline, the Intercoastal Waterway and the St. Johns River, all of which provide excellent economic and recreational opportunities. Development in the County has occurred along the coast and its western boundary. The middle of the County has remained undeveloped because of its high occurrence of hydric soils and abundance of wetlands that are unsuitable for construction. The development that has

²⁷Bureau of Economic and Business Administration
University of Florida. 1991 Florida Statistical Abstract;
University of Florida, 1991, p.40.

VOLUSIA COUNTY

Location Map



Source: Florida County Maps C.J. Puetz

occurred along the coast and western boundary has occurred on upland ridges. This is evident by the location of the fourteen municipalities in the County that are either along the coast or in the western part of the County.

Volusia County ranks 9th out of the 67 counties in population with 370,712 people in 1991.²⁸ The following table shows a breakdown of the population of the County by jurisdiction:

VOLUSIA COUNTY
ESTIMATED 1991 POPULATION PROJECTIONS

Daytona Beach	61,921
Daytona Beach Shores	2,335
Deland	16,491
Edgewater	15,337
Holly Hill	11,141
Lake Helen	2,344
New Smyrna Beach	16,543
Oak Hill	917
Orange City	5,347
Ormond Beach	29,721
Pierson	2,988
Ponce Inlet	1,704
South Daytona	12,482
<u>Unincorporated</u>	<u>156,124</u>
TOTAL	370,712

Source: Bureau of Economic and Business Administration
University of Florida

The population of the unincorporated area of the County is approximately 42 percent of the population of the County. The municipalities in the County have 58 percent of the population or approximately 214,588 people. Of the 370,712 people in the

²⁸Bureau of Economic and Business Administration
University of Florida, p.13.

County, over 65 percent live in the eastern portion of the County along the Atlantic Coast. A map of the location of the cities within Volusia County has been provided on the following page.

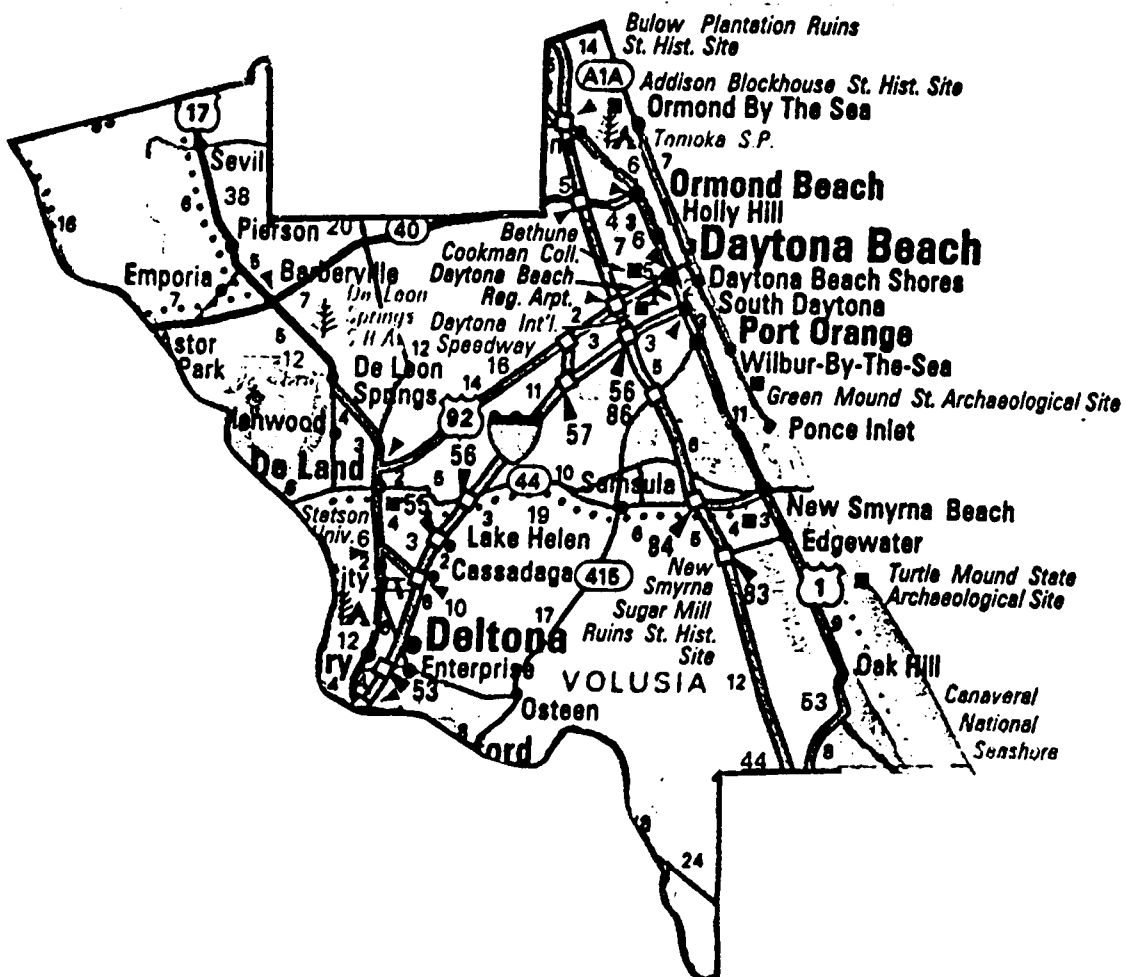
HOME RULE CHARTER

Volusia County is one of the few counties in Florida that has adopted a Home Rule Charter. A Home Rule Charter is the legal document by which county governments in Florida "may exercise all powers of local self-government not inconsistent with the general law and as adopted by a vote of the electors of the county."²⁹ In Volusia County, the Home Rule Charter establishes the framework of the government in the County. Below is a list of the articles which the Charter addresses:

Art.I	Creation of the Government
Art.II	Powers and Duties of the County
Art.III	Legislative Branch - County Council
Art.IV	Administrative Branch - County Management
Art.V	Judicial System
Art.VI	Administrative Departments of Government
Art.VII	Adjustment, Regulatory and Advisory Board
Art.VIII	School System
Art.IX	Elections
Art.X	Personnel Administration
Art.XI	Finance
Art.XII	Code of Ethics
Art.XIII	Miscellaneous Provisions
Art.XIV	Special Tax Districts and Authorities

²⁹Florida Statutes, Chapter 125. "Division of Statutory Revision of the Joint Legislative Management Committee;" Tallahassee, Florida, 1993, pp.969-975.

VOLUSIA COUNTY
Municipality Location Map



Source: Rand McNally & Company

The importance of providing some background to the Home Rule Charter is its relationship to the creation and implementation of the Volusia Growth Management Commission. If Volusia County was not a Home Rule Charter county, the creation of the Volusia Growth Management Commission would not be possible. The Home Rule Charter provides the residents of Volusia County with the ability to implement new rules to further improve the governance of the County. The Home Rule Charter provides the mechanism by which the residents in the County, by way of the Charter Review Commission, can update the Charter every ten years. The Charter Review Commission reviews the County Charter and makes recommendations to the general public about changes that should be considered to maintain a progressive charter that addresses current problems.³⁰

CREATION OF THE COMMISSION

The last Volusia County Charter Review Commission took place in 1985-1986. During that review, the Volusia County Charter Review Commission determined that one of the county's compelling problems was how best to implement the State's new growth management legislation. The Commission, as the rest of the counties in Florida, was trying to determine which approach would be the most practical for Volusia County to

³⁰Volusia County Charter. Section 202.3. Volusia Growth Management Commission; June 1987, p.3.

implement the new legislation and what, if any, further improvements could be made to the intent of the new legislation. The Volusia County Charter Review Commission reviewed the newly enacted State of Florida Growth Management Legislation to determine what action, if any, the Volusia County Charter Review Commission could take to further refine growth management at the local level. From this process, it became evident to the Volusia County Charter Review Commission that the state's growth management legislation provided consistency between the comprehensive growth management plans through the governmental hierarchy. The new legislation mandates that county and city plans be consistent with those of the state's regional planning councils which in turn must be consistent with the state's comprehensive plan. However, the new legislation provided little direction or guidance in establishing consistency between comprehensive plans of the jurisdictions in the governmental hierarchy. This left each individual county and municipality to develop its own comprehensive planning process with no consideration of the impact the plan would have on an adjacent jurisdiction.

There was an underlying power struggle between the jurisdictions over the future planning of Volusia County. Based on several conversations with some of the people on the Volusia County Charter Review Commission and active participation in the political arena, it appears that the

power struggle was mainly between the County and the municipalities in the County. As is the case with most jurisdictions in Central Florida, there is a never ending struggle between the County and these municipalities. This is due to the changes that have occurred in the roles that the counties and the municipalities play to the point where they now compete with one another.

The original intent for the formation of counties in Florida was to provide the population, within a defined area, with representation to the legislature in Tallahassee. The municipalities in the county were established to provide infrastructure and public facilities and services. Over the course of the last fifty years, the original intent of the counties and municipalities has blurred. Counties often now provide the same services as their municipalities. This has created an atmosphere of competition between the county and its municipalities over territory and the servicing of that territory.

In an attempt to control planning for the future of Volusia County, the County pursued the idea of having a review body that could bring to closure any conflicts between the County and municipalities over territory and the provision of services to that territory. Closure in this instance means that this body would have the ability to resolve a dispute

between jurisdictions by mandating a remedy to the conflict that would be binding on jurisdictions. Therefore, at its 1986-1987 hearings, the Volusia County Charter Review Commission in its deliberations proposed the creation of a Volusia Growth Management Commission to "determine the consistency of the municipalities' and county's comprehensive plans and any amendments thereto with each other".³¹ The Volusia Growth Management Commission would have the ability to bring any comprehensive plan related dispute between jurisdictions to closure. This would solve both the issue of inconsistency between plans and provide a means by which jurisdictions could resolve comprehensive planning issues without having to undertake the expensive and lengthy legal litigation process. The determinations by the Volusia Growth Management Commission would be binding on the jurisdiction. No plan, element of a plan, or plan amendment that did not receive a certification of consistency could not be considered implementable and, therefore, could not be acted on by the jurisdiction. This proposal would grant significant authority to the Volusia Growth Management Commission. Even if the Florida Department of Community Affairs found a plan in compliance based on the state's growth management legislation, in particular Florida Statute 163 and Florida Administrative Code 9J-5, the Commission could find the plan, element of the plan, or plan amendment inconsistent thereby making any action

³¹Volusia County Charter; pp.3-4

taken by the jurisdiction non-enforceable. This grants the Volusia Growth Management Commission a great deal of authority in comprehensive planning issues.

As part of the recommended changes to the Volusia County Charter, the Volusia County Charter Review Commission approved for voting the creation of the Volusia Growth Management Commission be in the next voter referendum. This recommendation, as well as others, were then drafted as amendments to be voted on by the citizens in Volusia County at the November 4, 1986 referendum. At the November 4, 1986 referendum, the citizens in Volusia County approved the amendment to the Volusia County Charter to establish the Volusia Growth Management Commission.

Following the approval of the establishment of the Volusia Growth Management Commission, the County and the municipalities appointed representatives as required by the Volusia County Charter. On February 25, 1987 the Commission held its first meeting.³² Each of the 14 municipalities appointed one member to the Commission. Volusia County appointed four members from the unincorporated area of the County. The County was given four voting members because the area that constitutes unincorporated Volusia County covers the entire County. The four appointees for the County were to be

³² Volusia County. "Resolution No. 87-1." 25 Feb. 1987.

representatives of Countywide concerns. The non-voting representatives to the board included one representative from the following entities: the Volusia County School Board, the St. Johns River Water Management District, and the Volusia County Business Development Corporation.

Most of the jurisdictions in Volusia County appointed private citizens; however, several of the jurisdictions appointed employees of their jurisdiction like planners and attorneys. This has led to some discussion by individual Volusia Growth Management Commission members about changing the requirements of membership to exclude public employees that represent a city or the County. The perception of some members is that having a public employee serving on the Volusia Growth Management Commission is not appropriate and could impact the voting of Commission members.

The vote for each member is weighted and "equal to the percentage of the population within its jurisdiction with the overall county population."³³ The percentage of the weighted vote for Volusia County is divided equally among the five members. The percentage of the vote of any one jurisdiction is not to exceed 50%. The stipulation that no jurisdiction can exceed fifty percent of the vote provides for equal representation between all the jurisdictions in Volusia County

³³Volusia County Charter; p.3.

and has limited the influence of the County on the vote of the Volusia Growth Management Commission. This has made it impossible for one jurisdiction to guide the voting of the Volusia Growth Management Commission. The weighted vote is based on the population estimates published by the Bureau of Economic Research of the University of Florida and/or population data from the Volusia County Planning Department every year. The table below shows the weighted vote of the Commission in 1987.³⁴ The weights of the votes have not changed considerably over the last seven years. The 39.26% weighted vote for the unincorporated area of the County represents approximately a ten percent weighted vote for each of the four members.

VOLUSIA GROWTH MANAGEMENT COMMISSION WEIGHTED VOTE

<u>Jurisdiction</u>	<u>Population</u>	<u>Percentage</u>
Daytona Beach	58,593	18.37%
Daytona Beach Shores	1,707	0.54%
Deland	16,428	5.15%
Edgewater	11,039	3.46%
Holly Hill	11,105	3.48%
Lake Helen	2,389	0.75%
New Smyrna Beach	14,801	4.64%
Oak Hill	1,078	0.34%
Orange City	3,657	1.15%
Ormond Beach	28,933	9.07%
Pierson	1,128	0.35%
Ponce Inlet	1,420	0.44%
Port Orange	29,034	9.10%
South Daytona	12,446	3.90%
<u>Unincorporated Area</u>	<u>125,260</u>	<u>39.26%</u>
Total	319,018	100%

Source: Volusia County Ordinance 87-2.

³⁴Volusia County. "Resolution 87-2." 25 Feb. 1987.

After the appointed positions were filled for the positions on the Volusia Growth Management Commission, the Volusia Growth Management Commission voted Mr. Joe Benedict as its Chairman. Mr. Benedict remained the Volusia Growth Management Commission Chairman through 1991. After the approval of a Chairman, the Volusia Growth Management Commission hired a legal consultant, Mr. Tom Cloud Esq., from the firm of Gray Harris & Robinson and a planning consultant Mr. Jim Sellen, from the firm of Miller-Sellen Associates, Inc. With the assistance of the jurisdictions in Volusia County and its consultants, the Volusia Growth Management Commission undertook the task of developing and implementing the rules, review criteria and procedures for the Volusia Growth Management Commission. The Commission through its Growth Management Related Issues Committee held public hearings on May 18, 1987 and May 21, 1987. The Volusia Growth Management Commission then held hearings on June 10, 1987 and June 24, 1987 to develop the rules of procedure for the enforcement of the Volusia Growth Management Commission's consistency review.³⁵ The County officially adopted the rules on July 23, 1987.³⁶ Since the adoption of Ordinance 87-24, there have been subsequent amendments, Ordinance 89-39, 92-87, and 93-13, that have further refined the consistency review procedures.

³⁵Volusia County. "Resolution 87-5." 24 June 1987.

³⁶ Volusia County. "Ordinance 87-24." 23 July 1987.

These amendments have streamlined the review process so that it coincides with the review process of the State Department of Community Affairs. This allows the jurisdiction to obtain approval simultaneously from the Department of Community Affairs and the Volusia Growth Management Commission, thereby, eliminating the need for adoption hearings.

CHAPTER IV

VOLUSIA GROWTH MANAGEMENT COMMISSION

PURPOSE AND INTENT

As established by the Volusia County Charter, the main purpose of the Volusia Growth Management Commission is as follows:

" The main purpose of the Commission is to provide an effective means for coordinating the plans of municipalities and the County, in order to provide a forum for the several local governments in Volusia County to cooperate with each other in coordinating the provision of public services to and improvements for the citizens of Volusia County, and create incentives to foster intergovernmental cooperation and coordination."³⁷

As part of the rule making process, the newly enacted Volusia Growth Management Commission defined its main purpose to be to determine the consistency between the Comprehensive Plans of the jurisdictions in Volusia County. Consistency is defined as reducing to a minimum the potential negative extra-jurisdictional impacts from one jurisdiction to another. The Volusia Growth Management Commission, through lengthy discussions, established the basis by which every comprehensive plan would be reviewed for consistency and when a Certification of Consistency would be issued to for

³⁷ Volusia County. "Ordinance No. 87-24." 23 July 1987.

jurisdiction's comprehensive plan. In order to provide the Volusia Growth Management Commission and its support staff, as well as the jurisdictions, with some parameters by which Comprehensive Plans would be reviewed, the Volusia Growth Management Commission adopted Ordinance 87-24, Section 6. These review criteria have not been changed since their adoption

The review criteria to determine whether a comprehensive plan is consistent are broad in scope and provide the Volusia Growth Management Commission with wide reaching authority. However, the Volusia Growth Management Commission and its staff have been very specific as to the intent of the review and have avoided the temptation to expand its boundaries of authority. The following are the review criteria by which the Volusia Growth Management Commission evaluates the consistency of a comprehensive plan, element, or plan amendment:

a. The extent to which the plan, element, or plan amendment provides for area-wide or central utility service solutions.

b. The extent to which the plan, element, or plan amendment provides for area-wide or regional transportation solutions.

c. The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant adverse impacts on infrastructure beyond the boundaries of one's jurisdiction.

d. The extent to which the plan, element, or plan amendment causes or may reasonably be anticipated to cause significant

adverse impacts on natural resources which extend beyond the boundaries of one's jurisdiction.

e. The extent to which the plan, element, or plan amendment provides for the coordination or the timing and location of capital improvements in a manner to reduce duplication and competition, and

f. The existence of an agreement among all substantially affected local governments, substantially affected parties (if any), and the applicant which provides for all said governments' consent to the application. If the Commission determines that such an agreement exists for any given application, then it shall be rebuttably presumed that said application does not adversely affect intergovernmental cooperation and coordination.³⁸

CASE STUDIES BEFORE THE COMMISSION

As examples that have come before the Volusia Growth Management Commission, the following case studies illustrate how land use and impacts on adjacent jurisdictions are being handled by the Volusia Growth Management Commission. These examples show how the Commission has used its authority to further intergovernmental cooperation, coordination and consistency between comprehensive plans. The five case studies the following demonstrates the process by which comprehensive plan amendments come before the Volusia Growth Management Commission for review. The final case is a review of an action the Volusia Growth Management Commission took as a result of an inequity in the plans of the jurisdictions deriving from actions by the Department of Community Affairs.

³⁸ Volusia County. "Resolution No. 93-2." 24 Feb. 1993.

Orange City Mixed Use

In 1989, the City of Orange City submitted a comprehensive Plan Amendment to the Volusia Growth Management Commission. A major aspect of this plan amendment was the creation of a new land use category, Mixed Use. The City proposed to change the land use on approximately 500 acres along its major thoroughfare that is maintained by the State and County.

The Mixed Use land use designation proposed permitted an array of uses from single family residential to intensive commercial. However, at the time of the application, it was not known what the development program would be for the 500 vacant mixed use acres. Therefore, it was impossible to determine the potential impacts of the proposed mixed use land use category on adjacent jurisdictions. First, some of the land uses proposed in the mixed use category might not be compatible to those of the County where the mixed use category abuts other use. In most instances, the County's abutting land use was Low Density Residential (up to 4 dwelling units per acre).

In addition to the potential incompatible land uses, there were unanswered questions concerning the potential impacts on infrastructure. Depending on the ultimate development program for the mixed use category, the impacts on the available

traffic capacity as well as potable water and wastewater, could be substantial to the point of requiring major capital improvements by the public sector. For example, based on review of the acreage requirements for the four malls in Central Florida and review of the Urban Land Use Institute's publications, the average acre requirements for a mall is between 30 to 70 acres. Considering that the City of Orange City was proposing 500 acres, of which potentially all could be commercial/retail oriented (mall), the impact on the existing infrastructure could be substantial to the point of using all the available capacity on the roadway system for several miles. With the major roadway system within the City being maintained by the State and County and Orange City's inability to make all necessary improvements, if an intense use were proposed beyond those that would be required by the City from the developer, the other improvements would fall on the County and State. Therefore, the Volusia Growth Management Commission determined that the potential for extra-jurisdictional impacts existed.

In its attempt to assist the City of Orange City in its endeavor to promote commercial development to enhance its tax base, the Volusia Growth Management Commission found the amendment conditionally consistent. The condition was that if a specific development program for the mixed use area or a portion thereof were proposed, the City of Orange City would

have to submit the proposed development program to the Volusia Growth Management Commission for review and approval.³⁹ This would allow the Volusia Growth Management Commission to evaluate the potential for and to make sure that no significant extra-jurisdictional impacts occurred when a development program was finally proposed for those areas. This course of action by the Volusia Growth Management Commission provided the adjacent jurisdiction and the Commission with reassurance that any potential negative impact on the plan of an adjacent jurisdiction would require a review in the future.

City of Deland Twelve Oaks and Royal Oaks

The City of Deland in 1993 submitted an application for a Comprehensive Plan Amendment to amend the future land use map for an area recently annexed into the City of Deland. The area was just West of the intersection of Interstate 4 and State Road 44 in West Volusia County. The amendment asked for a change from a County Activity Center to a City Activity Center with a defined plan.

The area that encompassed this Activity Center land use request was part of two development proposals called Twelve Oaks and Royal Oaks. Combined these developments proposed

³⁹Volusia County. "Resolution No. 89-4." 22 Feb. 1989.

approximately 1.7 million square feet of industrial, 200,000 square feet of commercial, and 1,100 single family residential units. The proposed development was subdivided into three phases with each phase constituting a third of the total development.

The concerns raised by both Volusia County, which in this case is an adjacent jurisdiction, and the Volusia Growth Management Commission staff had to do the expectation that traffic impacts from this proposed development would exceed the capacity of the surrounding roadway network. Specifically, State Road 44 is a Volusia County roadway onto which Twelve Oaks and Royal Oaks would funnel traffic. The compromise reached and adopted by Ordinance at a Volusia Growth Management Commission public hearing between the parties was that the developer would be permitted to proceed with phase one. At the end of phase one, the City of Deland would require the developer to do a traffic study to evaluate the condition of the surrounding roadway system. Based on the impact studies, the developer would be required to mitigate adverse effect. This approach provided an avenue by which the developer could proceed with development of the property and provided the adjacent jurisdiction with the reassurance that required infrastructure improvements would occur as this development impacted the adjacent jurisdiction.

City of Daytona Beach Indigo Property

The City of Daytona Beach annexed approximately 16,000 acres of property west of Interstate 95 on the west side of the City. The requested land use change was from County Low Impact Urban to City Urban Transitional and Urban Low Intensity. The City's Urban Transitional and Urban Low Intensity both permit an array of land use from single family residential to commercial with densities/intensities up to 3 dwelling units per gross acre and floor area ratio of .25.

Volusia County's concern was two-fold. First, the exact location of uses within the Urban Transitional and Low Impact urban land use could not be established. Secondly, because of the size of property involved it was impossible to determine the potential for adverse impacts on adjacent jurisdictions.

The resolution to Volusia County's concerns was approved by ordinance by the Volusia Growth Management Commission. The resolution required the City of Daytona Beach to adopt development densities and intensities that were comparable to those that the County had before the property was annexed. The area encompassed the western most portion of the property covering approximately 11,000 acres. The remaining 5,000 acres could be developed under the Urban Low Intensity land use designation; however, whenever a use excluding residential

was, proposed within 1/4 mile of an adjacent jurisdiction, the City of Daytona Beach would be required to submit an impact analysis of the proposed development plan to the adjacent jurisdiction for review. In addition, because the 16,000 acres is under one ownership, the adjacent jurisdictions would be able to review detailed land use master plans as they became available. This occurs because the property exceeded the threshold for developments of regional impacts.

Volusia County Southeast Activity Center

The County's original comprehensive plan future land use map had several major interchanges designated as "Activity Centers." These activity centers ranged from 200 hundred acres to 1,500 acres in size. The intent of the activity center designation was to promote an area of intense development that would have an array of land uses. These uses would complement each other and reduce the necessity for external vehicular trips.

The Volusia Growth Management Commission and the jurisdictions that were in close proximity to the activity centers were concerned with the uses permitted and the density and intensity at which those uses were proposed. An activity center permits uses from high density residential to

industrial. However, the location of those uses and the extent of any use was not yet determined.

In order to reach a resolution of the concerns of all involved, the Volusia Growth Management Commission imposed conditions on the County's comprehensive plan requiring that the County by their five-year update submit land use plans for the activity centers with goals, objectives and policies to guide growth in those area. In the interim if a property owner within an area designated as an activity center wanted to develop, the property owner would have to submit the plan as a planned development for review. This planned development application would be submitted to the Volusia Growth Management Commission which would review the plan only on the basis of consistency between plans based on its enabling legislation and not on site design or zoning issues. If the Commission found that the development program proposed would create an adverse impact on an adjacent jurisdiction, then the property owner would have to submit an application to the Commission for review and approval. If no adverse impacts were created development permitting could proceed.

City of Oak Hill

The City of Oak Hill is one of the smallest jurisdictions in Volusia County with a population of under 1,000 people. It is

located just north of Cape Canaveral in an area that is environmentally sensitive. The City has no potable water or wastewater services and has no intention of getting into the utility services business. However, the City has proposed large areas for both industrial and commercial development that would be serviced by wells and package treatment plants.

There was a concern on the part of Volusia County, Environmentalists and the Commission regarding possible contamination of the water supply and other problems associated with the use of individual wells and wastewater package treatment plants. The Volusia Growth Management Commission by Ordinance requires that any industrial or commercial development must set up interim package water and wastewater treatment facilities that need to connect to the County's regional potable water and wastewater services when it becomes available. In addition, the package water and wastewater facilities would at sometime in the future be dedicated to the County.

Backlogged or Constrained Roadway Degradation Factors

Between 1989 and 1992 every jurisdiction in Volusia County submitted its comprehensive plan to the State Department of Community Affairs for compliance review with Florida Statute Chapter 163 and Florida Administrative Code 9J-5. One of the

results of the State's review was that jurisdictions through their negotiations with the State Department of Community Affairs were given different levels of degradation on the same roadway segment. The effect of this was that one jurisdiction would be able to continue to develop property that impacts a specific segment of a backlogged or constrained facility while the other jurisdiction would have to stop issuing development permits until it improved the roadway beyond the adopted level of service.

To bring this inconsistency to a close, the Volusia Growth Management Commission by Ordinance required that all jurisdictions that impacted a specific roadway segment adopt the most restrictive degradation factor approved by the State for that roadway segment.

Although somewhat simplified, these cases demonstrate the power of the Volusia Growth Management Commission to evaluate and regulate local land use decisions and facilitate intergovernmental cooperation and coordination between jurisdictions in Volusia County. One of the main reasons why the Volusia Growth Management Commission has been able to make informed decisions and promote cooperation and coordination is its extensive requirements for submittal.

APPLICATION FOR CERTIFICATION

An application to the Volusia Growth Management Commission for consistency review is required at the same time a jurisdiction submits a comprehensive plan amendment to the Florida Department of Community Affairs as required by Florida Statutes Chapter 163. The Volusia Growth Management Commission, in its attempt to assist the jurisdictions in Volusia County tries to finish its review prior to the review being completed by the Florida Department of Community Affairs. This is done to minimize the jurisdiction's requirement to resubmit to the Florida Department of Community Affairs if the Volusia Growth Management Commission requires changes to the jurisdiction's amendment and also to allow the jurisdiction to request the assistance of the Volusia Growth Management Commission in its attempt to obtain compliance from the State.

The minimum requirements for submittal to the Volusia Growth Management Commission are listed below as defined in Ordinance 87-24, Section 4, as amended:

A.The extent to which any plan, element, or plan amendment submitted proposes to create adjacent, incompatible land uses and the manner in which the adverse impact of these incompatible uses may be eliminated or mitigated; and

B.The extent to which any plan, element, or plan amendment proposes policies and/or physical improvements which may adversely impact the objective of promoting the coordination

of infrastructure affecting more than one area of jurisdiction.

C.Existing coordination mechanisms used in preparation of the plan, element, or plan amendment being submitted.

D.Any recommendations contained in the proposed plan, element, or plan amendment which affect the plans for land use or infrastructure contained in the plans of adjacent local governments within Volusia County.

E.The facts supporting the recommendations and the identification of recommended measures which may be used to mitigate or eliminate any adverse impacts resulting from these recommendations.

F.Identification of specific problems and needs within the comprehensive plans of said adjacent governments which would benefit from improved or additional intergovernmental coordination and recommended solutions for resolving these potential problems and needs.

To meet the requirements of the application to the Volusia Growth Management Commission, most of the jurisdictions in Volusia County have been submitting the application that is submitted to the State Department of Community Affairs in addition to addressing the above minimum requirements. The information submitted to the State Department of Community Affairs for any comprehensive plan amendment as stipulated in Florida Statutes 163 and Florida Administrative Code 9J-5 requires the provision of a detailed description of the proposed comprehensive plan amendment, the land use change and to the extent possible, the impact on infrastructure. However, there are no requirements with regard to assessing the impacts of the proposed amendment on adjacent jurisdictions. Therefore, in addressing the requirements for submission above, the jurisdiction can fulfill its obligation

with regards to the submittal requirements to the Volusia Growth Management Commission. Even though it is not required by the rules of the Volusia Growth Management Commission, having the jurisdictions submit the same application to both the Department of Community Affairs and the Volusia Growth Management Commission reduces redundancy and expense.

STAFF REVIEW REQUIREMENTS AND PUBLIC NOTIFICATION

An application that is submitted to the Volusia Growth Management Commission is reviewed in its entirety within 110 days unless either the jurisdiction requests an extension of time or there is an outstanding additional information request that has not been addressed. The review of an application can be broken down into three separate stages. The first stage is the time for notification. The second stage is the review and staff report for the Volusia Growth Management Commission, and the final stage is the notification of a public hearing.

Notification Stage

After an application has been submitted to the Volusia Growth Management Commission and found complete, three different notifications must be made and the time clock for review for each commences. First, notification is given to the public. Second, notification is given to the adjacent jurisdiction and

any other party that may be impacted by the proposed amendment, and third notification is given for staff review. Within the initial fifty (50) days which commences from the date of receipt of an application, the following is required to take place:

1. The general public is notified by advertisement in the local newspaper within 21 days of receipt of the application. The general public then has 21 days to request by petition for a hearing on the amendment or submit concerns in writing to the Volusia Growth Management Commission staff.⁴⁰
2. An adjacent or affected jurisdiction is sent a copy of the application for comprehensive plan amendment at the same time as an application is submitted to the Volusia Growth Management Commission staff for review. An adjacent or affected jurisdiction must then either request a public hearing, additional information, or a 30 day extension of time before the 45 day review period expires. The 45 day review period commences on the date the application is stamped "received" by the Volusia Growth Management Commission Administrative Assistant.⁴¹

⁴⁰Volusia County. "Ordinance 93-13." 20 May 1993, P.7.

⁴¹Volusia County. "Ordinance No. 93-13." p.10.

3. The Volusia Growth Management Commission staff has 50 days to either request a public hearing, additional information or a 30 day extension of time or issue a letter of consistency. The 50 day review period commences at the same time as that above.⁴²

At the end of the initial 50 days, the Volusia Growth Management Commission staff is in a position to either recommend the issuance of a Certification of Consistency for the comprehensive plan amendment, issue an additional information request or schedule a public hearing.

Staff Review Stage

If an application has not been issued a Certification of Consistency, then the amendment enters into the second stage of the consistency certification process. In this second stage, the Volusia Growth Management Commission staff is working with the jurisdiction to obtain additional data and analysis to determine the extra-jurisdictional impacts from the proposed amendment. If the applicant jurisdiction can provide sufficient information to the Volusia Growth Management Commission staff for the staff to reach a determination that either this amendment proposes no extra-jurisdictional impacts or that the extra-jurisdictional

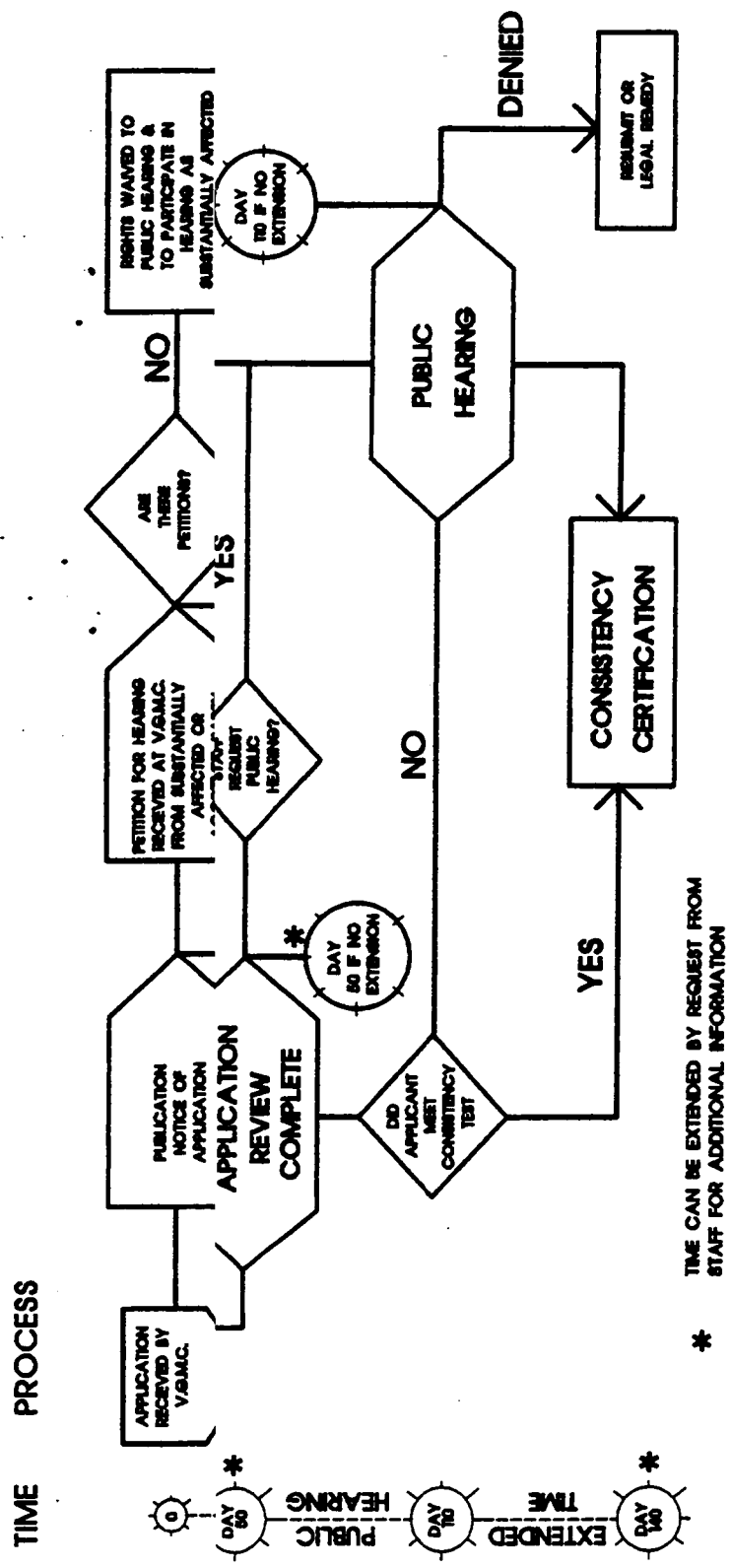
⁴²Volusia County. "Ordinance No. 93-13." p.9.

impacts have been adequately address, the staff can request the issuance of a Certification of Consistency. If an applicant jurisdiction cannot address all the staff's concerns, then the staff requests a public hearing before the Volusia Growth Management Commission. The Volusia Growth Management Commission planning staff will issue a staff report approximately seven (7) days before the public hearing, and the legal staff will issue an ordinance based on the staff report three (3) days before the public hearing.

Public Hearing Stage

The Volusia Growth Management Commission holds public hearings the fourth Wednesday of the month. At the public hearings, the Volusia Growth Management Commission staff review its staff report and makes recommendations. The jurisdiction whose comprehensive plan amendment is under review can then state its position. The Volusia Growth Management Commission then votes to either approve the ordinance as submitted or approve the ordinance with changes. Following the outcome of the public hearing, the ordinance is subsequently signed by the Volusia Growth Management Commission chairman and the County Manager and recorded in the public record. A flow chart is provided on the following page that details the review process described above.

VOLUSIA COUNTY GROWTH MANAGEMENT COMMISSION COMPREHENSIVE PLAN CONSISTENCY CERTIFICATION PROCESS



INTERGOVERNMENTAL PLANNING CONCERNS

The Volusia Growth Management Commission, in anticipation of the submission of the comprehensive plans of the jurisdictions in Volusia County being sent to the Volusia Growth Management Commission for review and certification, established a subcommittee to study the issues of inconsistency that would arise between comprehensive plans. In 1989, this subcommittee was formed and consisted of the planning directors of the jurisdictions in Volusia County and select Volusia Growth Management Commission members. It was hoped that by bringing the planning directors together in a non-political arena it would provide an opportunity to resolve many of the land use and infrastructure issues before they would come before the Volusia Growth Management Commission. In addition, these meetings would help enlighten the Volusia Growth Management Commission and its staff to the major concern regarding incompatibility between the jurisdictions in Volusia County.

Meetings of the subcommittee were held but the results that were hoped for were not achieved. The planning directors used this opportunity to gather information but did not openly discuss their concerns. Planning directors did not want to show their hand and raise issue with the plans of adjacent jurisdictions for fear of revealing the details of their plan and putting themselves in a compromising situation.

Therefore, it is believed that the results that the subcommittee had hoped for did not come to fruition.

However, in an attempt to get the major issues as seen by the planning directors in Volusia County to the forefront, the Volusia Growth Management Commission planning staff decided to conduct one on one meetings with the planning directors of some of the largest jurisdictions in Volusia County on their own turf and terms. It was agreed that the planning directors would not be mentioned in any subsequent discussions or written report. In this forum, the planning directors were more comfortable expressing their concerns regarding another jurisdiction's comprehensive plan. Out of these meetings, a report was generated that indicated to the Volusia Growth Management Commission areas of potential inconsistency and incompatibility between plans.

The major issues that resulted from the meetings were forwarded to the Volusia Growth Management Commission in a report, prepared by Miller-Sellen Associates Inc. The report "Intergovernmental Planning Issues in Volusia County" provided the Volusia Growth Management Commission with an indication of some of the major issues that would likely be coming before them in the next several years. The major issues that arose were as follows:

1) URBAN RESERVE AREAS - This issue involves the perceived need to retain future reserve areas adjacent to cities. There was a general concern that the County and cities needed to identify these areas in their Comprehensive Plans to avoid conflicts in land use, utility services, dedication of public facilities and taxation.

2) LAND USE - The concern here centers around the designation of a "Low Impact Urban" land use adjacent to municipal boundary lines. The municipalities are concerned that permitting low density urban uses now will result in objections from the County if the cities try to annex. The problem arises because low density urban, one to five units per acre, makes it impractical for the cities to economically provide public services. Such density also promotes leap frog development and urban sprawl.

3) UTILITY SERVICES - The major concern was that by permitting urban uses adjacent to municipal boundaries, in areas where extension of an existing municipal utility line may be more efficient, that in the future extension of such services would not be possible or cost effective thereby limiting a city's future annexation (growth) potential. A companion concern was that if this service was established by the County, especially at low densities where septic tanks and central water are required, great difficulties and expense would arise when future annexation takes place relative to retrofitting these areas for central wastewater services.

4) TRANSPORTATION - The major concern was that different trip tables are being utilized by jurisdictions to arrive at a standardized level of service. With the utilization of different trip tables, determining the adequacy of major thoroughfares may create discrepancies between the jurisdictions over the timing, location, and character of needed improvements.

5) RECREATION AND OPEN SPACE - Concern was raised that the utilization of different levels of service may promote "muching" of services from other jurisdictions and place a burden on those facilities. Muching is defined as county residents using city services with out paying city taxes. This concern was voiced by full service municipalities which have higher levels of service standards than the County.

In retrospect, the concerns raised in the report ended up being some of the major issues that the Volusia Growth Management Commission has had to resolve. The accuracy of the report shows that the issue of incompatibility between comprehensive plans and impact of those plans on one another was not a new issue; it is one that the State of Florida and Volusia County are now trying to come to grips with.

CHAPTER V

RESULTS OF THE RESEARCH

After completion of the interviews and other research, the results were compiled and evaluated in order to reach conclusions as to the thesis research question "Has the Volusia Growth Management Commission been successful in establishing consistency between comprehensive plans and has it promoted intergovernmental cooperation and coordination in Volusia County?" The answers to the research questions will be presented in the following manner. First, the results of the unstructured interviews will be presented along with explaining the reasons that certain answers were given. Second, the results of the participant observations in the daily functions of the Volusia Growth Management Commission will be presented. Third, the results will be compared to assess if there are any inconsistencies in the sample groups answers compared to the actions and positions that have been taken as they relate to the Volusia Growth Management Commission. Fourth, the results of the interview regarding whether there has been or has not been any litigation related to comprehensive planning issues in Volusia County since the inception of the Volusia Growth Management Commission.

INTERVIEW RESULTS

The results of the unstructured interview will be presented by each sample group. The answers that positively reflect on the Volusia Growth Management Commission will be addressed first followed by the answers that reflect negatively. After the results of each sample group have been presented, the conclusion will be established.

Results of Public Officials Surveyed

Through the interview process, it became apparent that the answers to the interview questions fell along two lines. The answers given were based on whether a jurisdiction has a planning staff or whether the jurisdiction had a consultant perform their comprehensive planning work. The jurisdictions with planning staffs had a more profound understanding of the Volusia Growth Management Commission and could render an opinion. The public officials of the smaller jurisdictions on the whole could not render an opinion or the opinion did not correlate to the function of the Volusia Growth Management Commission. To that end, the following are the results of the interviews that were conducted sub-grouped by whether a jurisdiction had a planning staff.

The knowledge of the public officials' sample group regarding the Volusia Growth Management Commission covered the entire spectrum from officials who were very informed to those that knew nothing about the Volusia Growth Management Commission. In addition, the answers to the research question also covered the entire spectrum from officials who believed that the Volusia Growth Management Commission was a waste of time and taxpayers dollars to those who believed that it played a vital role in the County's planning process.

The larger jurisdictions that had a planning staff and had filed at least one application per year before the Volusia Growth Management Commission were more aware of the Volusia Growth Management Commission's form and function and better able to render an opinion on addressing the research questions. Some of the smaller jurisdictions that did not have in house planning staffs were not familiar with the Volusia Growth Management Commission. However, their consultants were very familiar with the Volusia Growth Management Commission. It should be noted that about half of the smaller jurisdictions have a contract with the Volusia Council of Governments for the required planning services mandated by the State. The Volusia Council of Governments is an agency in Volusia County that assists the jurisdictions on planning and transportation related issues.

The majority of the sample group that was interviewed gave a favorable opinion of the Volusia Growth Management Commission regarding improving intergovernmental cooperation and coordination and establishing consistency between comprehensive plans. However, the basis upon which this conclusion was reached varied widely. The following are some of the opinions given during the interview process. First, some felt that the Volusia Growth Management Commission levels the playing field for all the jurisdictions by requiring consistency between the comprehensive plans of adjacent jurisdictions to the extent possible, without requiring each jurisdiction to be a clone of each other. Second, they felt that the Volusia Growth Management Commission provides a forum where a jurisdiction could raise a concern about the potential adverse impacts created by the comprehensive plan of another jurisdiction without having to go to the State or court for resolution. They believe that through the forum, the concerns of an adjacent or affected jurisdiction could be aired and resolved locally. Third, the Volusia Growth Management Commission, some believed, fills a need that has been overlooked by the State's current legislation. Finally, they observed that the Volusia Growth Management Commission provides the larger jurisdictions with some comfort that the smaller jurisdictions in Volusia County will have similar levels of service standards, thereby, not placing an adverse burden on one jurisdiction by mandating that it make

infrastructure improvements necessitated by the comprehensive planning efforts of an adjacent jurisdiction.

The sample group that gave a favorable opinion of the Volusia Growth Management Commission also expressed some concerns and frustrations with the Commission. The foremost concern was that the processing of an application through the Volusia Growth Management Commission is both time consuming and cumbersome. Another concern with the process is that it does not in practice, coordinate with processing of the amendment through the State Department of Community Affairs.

A minority of the individuals interviewed indicated that the Volusia Growth Management Commission did not meet its intent as stipulated in Volusia County's Charter. The main reason given was that it is just another "hoop" created that the jurisdictions need "to jump through" in a growth management process that is already cumbersome and time consuming. Other individuals indicated that the efforts of the Volusia Growth Management Commission are no more than a duplication of those performed by the State Department of Community Affairs when it reviews comprehensive plan amendments for compliance with the State's Growth Management legislation. In addition to the two main reasons stated above, other individuals indicated that the Volusia Growth Management Commission is trying to impose its authority on the jurisdictions in Volusia County without

understanding the individuality and uniqueness of each jurisdiction. The last negative response by this sample group was that the Volusia Growth Management Commission is exceeding its authority by forcing jurisdictions to conform with standards that have been adopted as precedents by the Volusia Growth Management Commission and now imposed on all jurisdictions across the board. These precedents are mainly level of service standards for traffic. The main complaint is that the current ordinance which governs the Volusia Growth Management Commission provides too broad powers and no way to curtail that power because it is a chartered Commission.

The individuals who had a negative response to the existence of the Volusia Growth Management Commission either had a negative experience with the Volusia Growth Management Commission within the last three years or did not fully understand the functions of the Volusia Growth Management Commission. However, overall, the response to the research question was positive because it gave the jurisdictions in Volusia County a way to challenge the potential adverse impacts of another jurisdiction's comprehensive plan without having to go to court. In addition, the findings and recommendations by the Volusia Growth Management Commission are binding. It would be difficult for any jurisdiction to pursue action to have those conditions reversed or eliminated without incurring a tremendous expense.

Results of Commission Members Surveyed

Since 1990, there have been 46 members on the Volusia Growth Management Commission. Of the 46 members, 19 were interviewed for this research which represents 41 percent of the members. The voting sample group interviewed was subdivided into two sub-groups those with three years or more of experience and those with less than three years of experience. The Volusia Growth Management Commission members with greater experience had more to say about their experiences as a member and had a stronger feeling for the function that the Volusia Growth Management Commission is performing for Volusia County. The Volusia Growth Management Commission members with less than a year of experience were more tentative in their response. New member responses were based more on standard answers provided by the orientation to the Volusia Growth Management Commission, than reasoned responses based on experience. In essence they tended to parrot what they had been told.

All the responses addressing the research question were positive. The Volusia Growth Management Commission members felt as representatives of their respective jurisdictions the Commission has provided their jurisdictions a forum in which to air their concerns without having to resort to litigation. In addition, the Volusia Growth Management Commission members overwhelmingly indicated that the Commission maintains a level

playing field for all the jurisdictions in Volusia County and gives all jurisdictions in Volusia County equal opportunity for representation and equal treatment. However, the members did acknowledge that because of the wide spectrum of capabilities of the jurisdictions, being treated equally did not necessarily mean the same thing. The members also explained in detail that since the Volusia Growth Management Commission has closure powers, once an opinion is given it is difficult for the affected jurisdiction to pursue other remedies. Therefore, the jurisdictions often are compelled to make modifications to their comprehensive plans to obtain a certification of consistency.

Some of the members of the Volusia Growth Management Commission also indicated that furthering the goal of intergovernmental cooperation and coordination has been the main theme of the Volusia Growth Management Commission but that the current structure of government does not facilitate furthering the goal. Several members indicated that the lack of intergovernmental cooperation and coordination is due to rigidity of growth management legislation and the competitiveness of the jurisdictions for political power and the "almighty dollar". Until the structure of the growth management movement and the funding methodology for the jurisdictions change, intergovernmental cooperation and coordination will be difficult to achieve.

Some of the members of the Volusia Growth Management Commission raised one major concern with regard to being a member of the Volusia Growth Management Commission and having to determine consistency between comprehensive plans. The complexity of comprehensive plans, growth management legislation and the jurisdictions influence have made establishing consistency between comprehensive plans difficult because no decision is ever black or white.

The final sub-group, the non-voting members, felt that the Volusia Growth Management Commission is performing its function. These members were glad to be a member of the Volusia Growth Management Commission even though they cannot vote. This sub-group felt that the Volusia Growth Management Commission provides them an opportunity to become aware and prepared for future development and provides them a forum to be heard. In addition, they feel that the Volusia Growth Management Commission has improved intergovernmental cooperation and coordination by bringing issues to the forefront.

"PARTICIPANT - AS - OBSERVER"

Being an employee of Miller-Sellen Associates, Inc. has provided the author of this paper an opportunity to be involved with the Volusia Growth Management Commission over

the last three years. Therefore, the "participant - as - observer" was a good way to compare the responses from the unstructured interview to the actions of both the public official's sub-group and the Volusia Growth Management Commission members. The observations below come from actual experiences during the past three years.

Results of Public Official Sample

The responses from the public official's sample group to the interview were fairly consistent with the actions of the officials. However, the two inferences in the responses by the public official sample group need to be elaborated. The first response that needs elaboration is that the Volusia Growth Management Commission provides a forum to resolve intergovernmental disputes and inconsistencies between comprehensive plans. This may in fact be true but the use of the Volusia Growth Management Commission by the jurisdictions in Volusia County as a forum to resolve intergovernmental cooperation and coordination is basically non-existent. Over the last three years, only twice has a jurisdiction expressed its concern with a comprehensive plan amendment application. In both instances, the concern was with the recommendations of the Volusia Growth Management Commission staff not going far enough in mitigating the potential impacts associated with the comprehensive plan amendment. Two reasons seem to prevail for

this lack of participation by the jurisdictions at the public hearings of the Volusia Growth Management Commission. First, before jurisdictions submit the comprehensive plan amendment application to the Volusia Growth Management Commission for review. They must submit the application to the adjacent or potentially affected jurisdiction(s). By this process, the jurisdictions seem to be resolving any inconsistency issues or finding a solution that will mitigate any adverse impacts the plan amendment may have on the adjacent or affected jurisdiction. Second, when an adjacent or affected jurisdiction(s) has not been able to remedy its concerns with the applying jurisdiction, the impacted jurisdiction will forward its concerns to the Volusia Growth Management Commission staff and let the staff carry the concern forward as an agenda item of the Volusia Growth Management Commission, thereby, letting the Volusia Growth Management Commission be the "lighting rod" for any discussion and confrontation because the Volusia Growth Management Commission makes the final determination. This has allowed both the applying jurisdiction(s) and the adjacent or affected jurisdiction(s) to remain in good standing with each another. However, it has put the Volusia Growth Management Commission in a constant adversarial position. Even though there have only been two formal submissions, there have been several instances where the Commission was put in the position of referee

The second response that needs further elaboration is that the Volusia Growth Management Commission's review process is redundant to that performed by the State and cumbersome. The State's 1985 Growth Management Legislation, until the 1993 ELMsIII legislation, paid lip service to the issue of intergovernmental cooperation and coordination and establishing consistency between comprehensive plans at the local level. The 1993 ELMsIII legislation and background data makes specific reference to the lack of intergovernmental cooperation and coordination in the comprehensive planning process. To such an end, the 1993 ELMsIII legislation that has been adopted to amend the State's 1985 Growth Management Legislation makes specific requirements for the institution of dispute resolution commissions throughout the state. The task for the formation of these dispute resolution commissions has been given to the State's Regional Planning Council. However, an exemption was made to the legislation that would allow jurisdictions to adopt commissions such as the Volusia Growth Management Commission to resolve disputes. Considering that the State felt in 1993, that the 1985 Growth Management Legislation lacked intergovernmental cooperation and coordination and provided no means to resolve inconsistencies in plans shows that the tasks performed by the Volusia Growth Management Commission are not redundant.

With regard to the Volusia Growth Management Commission process being cumbersome, the review process was modified in 1992 so that the Volusia Growth Management Commissions' review process coincided with that of the State Department of Community Affairs in reviewing comprehensive plans and plan amendments. This was done by the Volusia Growth Management Commission so that if a jurisdiction followed the process they would obtain approval before the State was in its fourth month of a usually nine month process. Some of the jurisdictions, especially the larger jurisdictions in Volusia County, have opted to delay the Volusia Growth Management Commission process until they have obtained approval from the State before proceeding through the Volusia Growth Management Commission. The jurisdictions that have taken the above position have done so for one reason. The jurisdictions feel that the State's process should take precedence over that of the Volusia Growth Management Commission and that it is easier to make changes through the Volusia Growth Management Commission than the State Department of Community Affairs. Therefore, after a jurisdiction has satisfied the State, any changes based on meeting the State's requirements can be submitted to the Volusia Growth Management Commission as additional information. If the jurisdiction would do the reverse and go through the Volusia Growth Management Commission process first before completing the State's

required review, any changes would likely require submittal of a new comprehensive plan amendment.

Results of Commission Member Sample

The answers to the interview process for the Volusia Growth Management Commission members concur with the actions and comments made by the Commission members over the last three years. The members as a whole feel that the Volusia Growth Management Commission has substantially improved the intergovernmental cooperation and coordination between jurisdictions and has provided a forum to resolve inconsistencies between comprehensive plans.

The learning curve for the newly appointed members to the Volusia Growth Management Commission seems to take approximately a year before they feel comfortable with their responsibilities. In addition, all members rely heavily on the Volusia Growth Management Commission's planning staff for determinations of consistency. This is evident by their actions over the last three years. During that time, the Volusia Growth Management Commission has adopted every recommendation made by the planning staff in its staff reports. Further, in 1992 the Volusia Growth Management Commission amended its rule to give the Volusia Growth Management Commission's staff the authority to review and find

plans consistent without having to hold a public hearing on the Comprehensive Plan Amendment.' This reliance on the planning staff to determine consistency and request the issuance of a certification of consistency without a public hearing is unique compared to any other commission, council or agency in the State of Florida. This authority has forced jurisdictions to resolve issues without the politics that usually accompanies planning decision. In addition, because the issues are resolved in advance it reduces cost because staff reports to the Volusia Growth Management Commission are not needed. The Volusia Growth Management Commission's relies on the staff to resolve conflict and issues.

Many of the Volusia Growth Management Commission members also have an interest in achieving greater intergovernmental cooperation and coordination. Their interest has come from what they have seen as a concerned citizen and/or as a previous member on a public agency or because of their involvement with the Volusia Growth Management Commission becoming aware of the comprehensive planning conflict between jurisdictions.

RESULTS OF OTHER RESEARCH

Based on several conversations with the attorney for the Volusia Growth Management Commission, we can conclude that no

litigation or even a request for an administrative hearing has been filed with the court or the State Department of Community Affairs, since the inception of the Volusia Growth Management Commission. The attorney indicated that any such action would have required the involvement of the Volusia Growth Management Commission. The only actions that have taken place since the inception of the Volusia Growth Management Commission have been two requests for administrative hearings on behalf of a resident in Volusia County based on a jurisdiction's comprehensive plan amendment submittal to the State and not to the Volusia Growth Management Commission. The issues involved in these administrative hearings are not related to the issues of intergovernmental cooperation and coordination. One of the hearings was completed in early 1994 and the other will be heard sometime during the middle of 1994. In both instances, the Volusia Growth Management Commission has been or will function as an expert witness in the administrative hearing on behalf of the jurisdiction.

CHAPTER VI

CONCLUSIONS

During the course of the research, the uniqueness of the Volusia Growth Management Commission in Florida and the uniqueness of the growth management movement in Florida became evident. The Volusia Growth Management Commission is the only body of its kind in Florida that reviews comprehensive plans for consistency among jurisdictions. The review conducted by the Commission determines what adverse impacts maybe created by the plan on an adjacent jurisdiction and what steps need to be taken to mitigate those impacts. The growth management movement in Florida is unique in that it is driven by the comprehensive growth management plan of a jurisdiction. Specifically, the future land use map of the comprehensive plan sets the stage from which development is regulated. This is different than in most other parts of the county where growth management is amid at influencing a specific factor such as "rate, type, location or quantity" growth.⁴³ In Florida and Volusia County in particular, the comprehensive plans and land use maps become an implementation tool.

The conclusions from the research will be presented in the following order; interviews, "participant - as - observer",

⁴³Goschalk, pp.7-10.

other research and final conclusions from the research. The first set of conclusions consists of recommendations that could further intergovernmental cooperation and coordination and establish consistency between comprehensive plans of adjacent jurisdictions. The second set details what other research needs to be conducted to further refine the conclusions, as well as, what other research needs to be conducted to further plan consistency and intergovernmental cooperation and coordination.

INTERVIEW CONCLUSIONS

The public official sample group as a whole believed that the Volusia Growth Management Commission has improved the intergovernmental cooperation and coordination and established consistency between comprehensive plans. However, the reasoning behind this belief varied depending on the individual. The public officials' sample group responses varied with each jurisdiction especially when comparing the responses for the smaller jurisdictions to those of the larger jurisdictions. This is likely the result of the difference in jurisdiction's planning support staff and the ability of the jurisdiction to meet Florida's Growth Management Legislation.

Of the Volusia Growth Management Commission members interviewed, all responded favorably to the research question

indicating that the presence of the Volusia Growth Management Commission has improved intergovernmental cooperation and coordination and established consistency between plans. However, the reasons why the members thought that the Volusia Growth Management Commission has improved intergovernmental cooperation and coordination differed. In addition, there was a difference in the responses from the new Volusia Growth Management Commission members compared to those that have been a member of the Volusia Growth Management Commission member for more than three years. The members that have been there for an extended period of time gave reasons based on their experiences as a member of the Volusia Growth Management Commission; whereas, newer Volusia Growth Management Commission members gave responses that were based on the reason for the existence of the Volusia Growth Management Commission. However, all the members felt that the Volusia Growth Management Commission has met its obligation to promote intergovernmental cooperation, coordination and consistency between comprehensive plans.

"PARTICIPANT - AS - OBSERVER" CONCLUSIONS

The responses by the individuals from the unstructured interview concur with the past action of those individuals or the jurisdictions that they represent. However, the reasons for the responses do not exactly parallel the actions of the

last four years by the individuals. The Volusia Growth Management Commission has promoted intergovernmental cooperation and coordination, but has been confronted with resistance from the jurisdictions in Volusia County. This resistance has come from the Commission's mandates to make changes to the comprehensive plans of the jurisdiction in Volusia County to further intergovernmental cooperation and coordination and consistency.

The jurisdictions have tried to minimize the possible confrontations with each other because of the Volusia Growth Management Commission. The applicant jurisdictions are submitting their application to the adjacent or affected jurisdiction and resolving any concerns before submitting it to the Volusia Growth Management Commission. Therefore, the Volusia Growth Management Commission, because of its existence, has promoted intergovernmental cooperation and coordination and consistency.

In addition, in instances where the jurisdictions cannot resolve their concerns before coming to the Volusia Growth Management Commission, the affected jurisdiction allows the Volusia Growth Management Commission to resolve the situation for the jurisdiction. Through this process direct confrontation between jurisdictions is avoided as well as

animosity that could hinder further attempts to promote intergovernmental cooperation and coordination. However, this process results in the Volusia Growth Management Commission having to deal with confrontation and negative publicity. A positive end result of this situation is the promotion of intergovernmental cooperation and coordination as jurisdictions do not become confrontational with each other. Therefore, the jurisdictions continue to cooperate with each other.

CONCLUSIONS FROM OTHER RESEARCH

As established in the previous chapter, there has not been a comprehensive plan litigation or request for an administrative hearing between jurisdictions. This further substantiates that the Volusia Growth Management Commission has been successful in promoting intergovernmental cooperation and coordination. The jurisdictions in Volusia County no longer view litigation as a first option in resolving disputes. Jurisdictions now try to resolve concerns with their comprehensive plans or plan amendments before coming to the Volusia Growth Management Commission.

FINAL CONCLUSION

It is concluded that the Volusia Growth Management Commission has promoted intergovernmental cooperation and coordination and, therefore, has promoted consistency between the comprehensive plans of the jurisdictions in Volusia County,

RECOMMENDATIONS

State Recommendations

The Volusia Growth Management Commission has provided one of the missing links in Florida Growth Management Legislation. The 1993 ELMS III tried to address this missing link by requiring amendments to a jurisdiction's Intergovernmental Coordination Element at the five year update of its comprehensive plan. However, the ELMS III legislation does not go far enough in requiring intergovernmental cooperation and coordination and at best only pays lip service to providing a vehicle of establishing consistency between comprehensive plans.

One of the fundamental goals of the 1985 State Growth Management Legislation was to establish consistency between the elements of the comprehensive plans. This was done to make sure that a jurisdiction could provide infrastructure

commensurate with the needs of the community. However, in achieving this goal the legislation made comprehensive plans regulatory documents without the need for vision or consistency between jurisdictions. In addition, each jurisdiction became concerned with meeting new legislation and overlooked issues beyond its jurisdiction.

One way to improve growth management in Florida, would be to have entities like the Volusia Growth Management Commission responsible for ensuring compliance with the State comprehensive plan requirements. This would facilitate the long review process and promote intergovernmental cooperation and coordination and facilitate consistency between comprehensive plans. Local entities would be more familiar with the uniqueness of the area and efforts of the jurisdictions to maintain that uniqueness. Currently the state review consists of assessing only the comprehensive plans of all the jurisdictions in Florida against the State's Growth Management Legislation. The review gives little concern to the affect of the plans as a whole or the impact that plans may have on one another.

Local Recommendations

Based on the research, it is apparent that the jurisdictions look favorably on the Volusia Growth Management Commission.

The jurisdictions should utilize the Volusia Growth Management Commission to assist them in their conflicts with the State during the comprehensive plan amendment review. Also, jurisdictions should embrace some of the joint planning recommendations the Volusia Growth Management Commission has forwarded to the jurisdiction in Volusia County to further promote intergovernmental cooperation and coordination.

FURTHER RESEARCH

Establishing consistency between comprehensive plans and promoting intergovernmental cooperation and coordination is in its infancy and will likely be the next step in the maturing process of the State of Florida's growth management movement. However, with each step that the growth management movement matures, the complexity of the growth management movement grows exponentially. Soon, growth management regulations will deal with every facet of government from land use planning to public improvements scheduling.

In this atmosphere, a substantial amount of research needs to be conducted in understanding the best way to establish an atmosphere of intergovernmental cooperation and coordination and consistency between comprehensive plans. Further research needs to be conducted to determine what issues need to be addressed through intergovernmental cooperation and

coordination and the extent that this should occur. In addition, research needs to be conducted to determine how governments can be restructured to better promote intergovernmental cooperation and coordination and establish consistency between comprehensive plans.

However, the most challenging research will be to better determine what will make plans of adjacent jurisdictions consistent. As previously stated, consistency is defined as having plans that do not adversely impact adjacent jurisdictions. Research needs to be conducted to determine what should be considered adverse impacts and how to mitigate them.

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