

AGENDA ITEM SUMMARY SHEET
VILLAGE COUNCIL MEETING
September 25, 2019

Agenda Item:

Consider adoption of Compliance Agreement to resolve administrative challenge to the Village's Comprehensive Plan

Description:

This is a request to adopt a "compliance agreement" related to the administrative challenge to the Village's Comprehensive Plan by ARGO and the Richard I. Templeton Family Trust. The compliance agreement was strongly urged by the State Department of Economic Opportunity as the acceptable method by the Department for reviewing the Comprehensive Plan wetlands amendment that had been transmitted to the State after the July 24, 2019 Council meeting.

Background:

The Village's Comprehensive Plan was adopted by the Council on June 13, 2018. The Plan was found in compliance by the State Department of Economic Opportunity. However, ARGO, et al. filed an administrative challenge to the Plan and as a result it is not yet effective.

The Village approved a Settlement Agreement with ARGO, et al. on May 1, 2019 which includes a provision that the Village would consider a comprehensive plan amendment and rezoning to resolve the administrative challenge to the Village's Comprehensive Plan. The Comprehensive Plan text amendment to the Wetlands Future Land Use Policy 1.2.3. was approved by Council to transmit to the State of Florida and reviewing agencies on July 24, 2019. (CPA2019-02.) The amendment was sent to the agencies a few days later.

The State Department of Economic Opportunity advised in a letter dated August 26, 2019 that the amendment was being returned because it believed it could not review the amendment while the challenged Comprehensive Plan was not yet effective. As an alternative, it advised that it would review the amendment if the Village entered into a compliance agreement.

A compliance agreement is allowed under Florida Statute Section 163.3184(6). It requires a "negotiation meeting" for the parties to negotiate the terms of such agreement. This meeting was held on September 4, 2019.

One public hearing is also required at Council to adopt the agreement.

The compliance agreement is attached. The agreement contains the proposed amendment to the wetlands policy which has been passed at first reading. Once approved and signed, the compliance agreement will be filed with the Florida Division of Administrative Hearings in the case of *Argo, et al. v. Village of Estero*, Case No. 18-3613GM. The Plan amendment will also be transmitted to the DEO and both the Plan and Plan Amendment would become effective after the DEO review and finding of compliance. The administrative challenge then will be dismissed.

Action Requested:

Adopt compliance agreement.

Financial Impact:

Minor cost associated with advertising the public hearing.

Attachments:

1. Compliance Agreement
2. Letter from Department of Economic Opportunity dated August 26, 2019