

CITY OF TALLAHASSEE

CITY COMMISSION RETREAT AGENDA ITEM

ACTION REQUESTED ON:	February 2, 2009
SUBJECT/TITLE:	Discussion of Local Economic Emergency Fast Tracking Program for Public Sector Projects
TARGET ISSUE:	Financial Viability of the Government

STATEMENT OF ISSUE

The dire state of the economy has created the need for decisive action to stimulate the construction industry and job creation within our community. In response to the direction from the Financial Viability of the Government Target Issue Committee, staff has developed a proposed Local Economic Emergency Fast Tracking Program for all public sector projects. The goal of the program is to stimulate our local economy by creating jobs while also developing a streamlined regulatory program that facilitates construction of needed public sector projects.

RECOMMENDED ACTION

Provide staff with feedback on all aspects of the proposed fast tacking program so that a finalized program can come back to the Commission by February 11, 2009. Direct staff to implement the instruments which will authorize required variances to the conservation and preservation features for public sector projects.

FISCAL IMPACT

This program would help stimulate the construction industry and provide jobs in our local community. Funding for most of the projects is already programmed into our Capital Improvement Program. The Program would also enhance our ability to implement any projects that may be funded under the Federal Stimulus Program.

SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS

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Legal

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HISTORY/FACTS & ISSUES

In response to direction received from the Financial Viability of the Government Target Issue Committee, staff has developed a proposed “Local Economic Emergency Fast Tracking Program for Public Sector Projects.” The Program is designed to minimize the time between project design and “turning dirt” on a public sector project site. Because there are many steps that take place between a project’s inception and its ultimate completion, staff assembled a multi-departmental staff team to identify the existing City processes, policies, and ordinances that serve as impediments to “fast tracking” public sector projects through the system. Once the list of impediments was developed, staff identified potential solutions for overcoming these impediments. The recommended solutions have been assembled into the proposed “Local Economic Emergency Fast Tracking Program for Public Sector Projects.”

Realizing that the permitting process is only one of a number of steps in project development, staff reviewed not only the efficiencies that could be saved in permitting, but also in the procurement, design, and construction phases of a project. The team members identified a number of creative ideas that could help to “jump start” projects and put people to work in our community. Many of the issues identified related to procurement (Requests for Proposals (RFP’s), contractor selection, consultant selection, and grievance processes) and permitting. Based upon the ideas generated, staff has prepared the program described below for your consideration.

LOCAL ECONOMIC EMERGENCY FAST TRACKING PROGRAM FOR PUBLIC SECTOR PROJECTS

For purposes of this agenda item, the term “fast track project” is defined as **all** projects initiated by the City of Tallahassee, Leon County, Leon County School Board, Blueprint, State of Florida, and the Federal Government. Under the proposed program, public sector projects (City of Tallahassee, Leon County, Leon County School Board, Blueprint, State of Florida, and the Federal Government, but not to include special districts or Community Development Districts) would be required to meet the requirements of the City’s Land Development Regulations to the greatest extent feasible, but “formal” permitting would not be required. Instead, Growth Management would assign staff to these capital projects at the earliest point in the design stage of a project. By being involved from the inception of the project, Growth Management staff can serve in an advisory capacity to the project manager (Public Works, Stormwater, Utilities, Blueprint, etc.) so that the project can be designed to substantially comply with the requirements of the Land Development Regulations. This team approach would eliminate the back and forth comments-resubmittal cycle that is inherent in the current multi-stepped process. However, it is important to note that while this will help to reduce project delays to some degree, the vast majority of the permitting portion of time delays only can be attributed to the difficulty in achieving compliance with the City’s more stringent regulations. The City’s regulations are more restrictive than the State’s with regard to the 14 conservation and preservation features and stormwater requirements. For example, while the State may not claim jurisdiction over an unaltered wetland, the City would require a conservation easement over the entire feature.

Similarly, while FEMA places constraints on how development in floodplains can occur (flood proofing, minimum finished floor elevations, etc.), the City's regulations prohibit development in an unaltered floodplain (as defined by the City). The City's regulations also restrict development in altered floodplains. While these regulations serve the environment well, they are local in nature and, therefore, can be modified by the City Commission if desired. It is important to note that full compliance with State and Federal regulations will still be required. Specifically, permitting through the Water Management District, the Department of Environmental Protection (DEP), and all other State and Federal Regulations will still be necessary.

If it is the desire of the Commission to move forward with the proposed fast tracking program, staff will prepare a blanket Linear Infrastructure Variance (LIV) for consideration by the Commission. The LIV will include a defined recommended level of mitigation to compensate for the impact to the protected features. It is important to note, however, that as the code is currently written, the LIV process can only be used to vary from the requirements of the 14 conservation and preservation features included in the Comprehensive Plan. While the goal will always be to achieve full compliance with the City's local environmental codes and community standards, the Commission may want to consider options that would provide flexibility to vary additional environmental components of the Land Development Code--not just the conservation and preservation features. Currently, the LIV process cannot be used to grant a variance to stormwater, tree protection, urban forest, or any other element of the Land Development Code. Depending on the balance the Commission would like to achieve between expediting the construction of public sector projects and compliance with the City's locally adopted community standards, several options exist.

For the proposed program to work most efficiently, the City Commission would need to amend the eligibility criteria to expand the types of requirements (to apply to all remaining requirements in Chapter 5 of the Land Development Code) that can be varied through the LIV process for projects under the economic emergency fast tracking program. The combination of expanding the scope of regulations that can be varied through the LIV process and adopting a blanket LIV to cover all public sector projects under the proposed program should result in a substantial reduction in design and review time. Both actions would be needed for the most significant time reductions to be realized. However, the Commission could also consider identifying only select provisions within the environmental regulations (e.g. tree protection and removal) for LIV eligibility. Stormwater could also be added to the list of regulations that can be varied through the LIV process because the State regulates and permits stormwater, but to a lesser standard than the City requires. The Stormwater Division noted that the State standards include permitting exemptions for certain types of projects, which may prove problematic if a blanket variance to the City stormwater standards is granted for all public sector projects.

Proposed Review Process

Staff recommends the following review process for projects under the proposed fast tracking program:

Establish the Project Team. The department sponsoring the public sector project will contact Growth Management (and any other department from which participation is needed) to request that a liaison be assigned to the project to advise the design team on regulatory issues.

Capital Improvements Plan (CIP). The department proposing the project will coordinate with the Planning Department to ensure that the project is included in the CIP if it impacts a level of service standard in the Comprehensive Plan. If it is not included in the CIP, the sponsoring department will need to coordinate with the Planning Department to have the project added to the CIP, if applicable.

Zoning Authorization. The department proposing the project will send an e-mail to Growth Management outlining the use and intensity of the project so that zoning staff can verify that the proposed project is allowable in the zoning district. No site plan application will be required.

Natural Features Inventory/Environmental Impact Analysis. The department sponsoring the project will ensure that a Natural Features Inventory (NFI) and, where applicable, Environmental Impact Analysis (EIA) are completed for the project. The NFI and EIA will not be submitted to Growth Management as formal applications but will be made available to the Growth Management liaison to ensure that all environmental features are identified so recommendations can be made to the design team that would minimize impacts to environmental features included on the site. When the blanket LIV is approved, recommendations can be made but the final determination of design/impact to features will be made by the department sponsoring the project. The goal will always be to achieve compliance with the City's community standards where feasible. At a minimum, compliance with State and Federal regulations will be required.

Continuing Coordination and Review. The multi-departmental team will continue to review and coordinate as needed throughout the design of the project. Once design is complete, a Growth Management inspector will be assigned to monitor that construction is occurring in accordance with the approved design documents. When changes occur in the field, the inspector will coordinate with the design engineer to ensure that the changes are acceptable and that they are properly reflected in the design documents. Upon completion of the project, as-built drawings will be submitted to the Growth Management inspector for final validation.

Fees. Growth Management will collect all appropriate fees as established in the fee resolution (even though a formal permit application will not be processed). This will help to offset the costs associated with Growth Management staff's participation in the design and inspection of the project.

Summary of Additional Impediments to Fast Tracking Public Sector Construction Projects and Recommended Solutions

As part of the exercise of developing the proposed fast tracking program, it became apparent that permitting comprises a relatively small portion of the overall public sector construction project

timeline from the design phase to actual construction. While efficiencies in permitting can be gained through the recommendations outlined above, the multi-departmental team identified a number of processes related to procurement, contracting, RFP's, and firm selection that can be streamlined to create even greater efficiencies. Staff anticipates that the recommendations outlined below will save a tremendous amount of time in the overall construction process.

Continuing Service Agreements. Suspend all Continuing Service Agreement (CSA) fee thresholds as provided for in Purchasing Policy 242CP for fast track projects under the proposed program and authorize the City Manager or designee to extend all existing CSA contracts currently in effect for two additional years.

Protest Procedures. Suspend current protest procedures for Fast Track Projects and authorize the City Manager or designee to review any protest and make a final disposition.

Develop Standardized Contracts. Develop a standardized contract document for fast track projects.

RFP Selection Team Composition. Staff shall modify procurement procedures to allow for RFP's to be evaluated by a single person in lieu of an evaluation team. The single person can rely on others to provide factual type input into their evaluation, but a single person would end up doing the scoring. This should speed up the evaluation process due to the open meeting law issues surrounding RFP evaluation committees.

Contractor and Design Firm Selection. Develop pools of pre-qualified contractors and design firms that are qualified to perform certain scopes of work. These firms would be selected on qualifications through an RFP process and departments could also "piggyback" on pre-qualified lists from Blueprint and Leon County. Design work could be assigned to various pre-approved consulting firms as needed and construction contracts could be internally bid between the firms on the list. Staff also recommends that the City Manager be given the authority to approve an option to select one contractor for a negotiated price, in lieu of a competition, if compelling reasons to do so existed.

Awarding of Work, Change Order Approvals. Staff recommends a modification to the City Commission and Procurement policies with respect to contract actions (awards, change orders, etc) to not require approval by the City Commission if it is a project in the approved capital budget. In other words, the City Commission approval of the capital budget would serve as the authorization to move the project forward and the City Manager could be given the authority to approve any contract actions required to get the job done.

Purchasing Authority Thresholds. Increase the City Manager's purchasing authority from \$50,000 to \$100,000 for all purchasing expenditures. Consistent with this approach, staff recommends that approval thresholds be developed to allow a defined level of authority to be delegated by the City Manager.

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Contract Signature Authority. Staff recommends that the contract signature authority be changed to match purchasing authority levels. This would expedite the contract execution process.

Contractor Release. Right now, we cannot release a contractor to go to work until the contract documents are fully executed by both the contractor (who typically signs first) and the City. I would suggest that we be allowed to release the contractor to go to work once we have the: (i) contract documents with the contractor's signature; (ii) an acceptable insurance certificate; and (iii) an acceptable performance bond. This would allow the contractor to go to work while the City is executing the contract. Note - this would require that the contract documents be acceptable, otherwise it would be difficult to get the contractor to agree to contract changes once the work has begun.

Local Preference Points. Amend the local preference ordinance and procurement policies to increase the preference given to local vendors for bids and contracting for projects under this program.

Stormwater Retrofit Projects. Draft an ordinance that provides clarification of how the Land Development Code requirements relate to stormwater retrofit projects. These types of projects do not fit existing City regulations, yet there are no exceptions or unique rules for such projects. In the interim period, staff recommends executing a Memorandum of Understanding under which Stormwater Retrofit Projects will operate until such time that the Land Development Code is amended to address these unique projects.

Community Input Phase. Amend current public involvement practices to reduce the number of public meetings to one for projects under the economic emergency fast tracking program. Public notice could be provided through signage, mailings, and citizens can be given the name and number of a contact person through which they can direct their comments.

Utility Coordination. Abbreviate the utility coordination process by getting timely coordination on utility issues earlier in the design stage rather than later in the process.

MBE Thresholds. Maximize use of existing certified MBE vendors for professional services and/or construction services for fast track projects.

Revise or supplement elements of the Real Estate Policy. Implement financial incentives, modeled upon the FDOT and Blueprint 2000 "Incentive Offer" procedure, for selected projects to promote quick settlements; provide support for current Property Management/Real Estate staff with the selective use of consultants, as necessary, to fast track property acquisition; and, exercise the power of eminent domain within the minimum statutory time frames to achieve a "quick take" of real property needed for a public purpose.

CHARITABLE CONTRIBUTIONS

N/A

OPTIONS

1. Provide staff with feedback on all aspects of the proposed fast tracking program so that a finalized program can come back to the Commission by February 11, 2009. Direct staff to implement the instruments which will authorize required variances to the conservation and preservation features for public sector projects.

Pros:

Reduces public sector project implementation timelines and puts people to work.

Expedites the construction of needed public sector projects by authorizing projects to move forward without demonstrating full compliance with conservation and preservation feature requirements but still requires compliance with the remaining local community standards.

Implements a collaborative multi-departmental approach to design review and implementation. Facilitates key staff involvement at the earliest stages of project development.

Cons:

May allow projects to move forward without full compliance with environmental regulations.

2. Approve staff's recommended "Local Economic Emergency Fast Tracking Program for Public Sector Projects." Direct staff to prepare an ordinance to broaden the scope of regulations that can be varied through the LIV process for purposes of this fast tracking program to only include the following sections:

- a. Section 5-83 (tree protection and removal)
- b. Section 5-85 (landscaping, and urban forest)

Direct staff to also prepare a blanket LIV to authorize variances to Section 5-81 (conservation and preservation features) and only options 2a and 2b above, upon approval of the ordinance.

Pros:

Reduces public sector project implementation timelines and puts people to work.

Expedites the projects to a greater extent than option 1 by offering additional variances to tree protection and landscaping/urban forest requirements but still requires local stormwater standards (which are more stringent than those imposed by the State) to be met.

Implements a collaborative multi-departmental approach to design review and implementation. Facilitates key staff involvement at the earliest stages of project development.

Cons:

May allow projects to move forward without full compliance with environmental regulations (except for stormwater requirements).

3. Approve staff's recommended "Local Economic Emergency Fast Tracking Program for Public Sector Projects." Direct staff to prepare an ordinance to broaden the scope of regulations that can be varied through the LIV process for purposes of this fast tracking program to include the following sections:

- a. Section 5-83 (tree protection and removal)
- b. Section 5-85 (landscaping, and urban forest)
- c. Section 5-86 (stormwater management design standards)

Direct staff to also prepare a blanket LIV to authorize variances to Section 5-81 (conservation and preservation) options 3a, 3b, and 3c above, upon approval of the ordinance.

Pros:

Reduces public sector project implementation timelines and puts people to work.

Expedites the projects to a greater extent than options 1 and 2 by offering additional variances to stormwater requirements but still requires State and Federal standards to be met.

Implements a collaborative multi-departmental approach to design review and implementation. Facilitates key staff involvement at the earliest stages of project development.

Cons:

May allow projects to move forward without full compliance with environmental regulations, including the City's more stringent stormwater standards.

4. Choose one of options 1 through 3 above to address the regulatory issues and direct staff to implement procedures that will change current City policies related to procurement and purchasing as identified in previous pages.

Pros:

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Streamlines the procurement process for public sector projects.

The economic stimulation generated by this program will be maximized for local vendors.

Cons:

Out of town firms may be critical of preference for local vendors.

ATTACHMENTS/REFERENCES

None