

**FRUITLAND PARK LOCAL PLANNING AGENCY MEETING  
AGENDA**

**August 26, 2021**

City Hall Commission Chambers  
506 W. Berckman Street  
Fruitland Park, Florida 34731

**As soon as practical at 6:15 p.m.**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES** (city clerk)  
June 10, 2021, LPA meeting.

**QUASI-JUDICIAL PUBLIC HEARING**

- 4. Quasi-Judicial Public Hearing – 2021-010 Private Property Rights Element – Comprehensive Plan Amendment** (city attorney/city manager/community development director)

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, STATE OF FLORIDA, PURSUANT TO THE PROVISIONS OF FLORIDA STATUTE 163.3184; AMENDING THE CITY'S COMPREHENSIVE PLAN; ADDING AND ADOPTING, PRIVATE PROPERTY RIGHTS ELEMENT OF THE COMPREHENSIVE PLAN; DIRECTING THE CITY CLERK TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE SECRETARY OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

**END OF QUASI-JUDICIAL PUBLIC HEARING**

- 5. UNFINISHED BUSINESSES**
- 6. PUBLIC COMMENTS**

This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Action may not be taken by the Local Planning Agency at this meeting; however, questions may be answered by staff or issues may be referred for appropriate staff action.

Note: Pursuant to F.S. 286.0114 and the City of Fruitland Park's Public Participation Policy adopted by Resolution 2013-023, members of the public shall be given a reasonable opportunity to be heard on propositions before the Local Planning Agency. Accordingly, comments, questions, and concerns regarding items listed on this agenda shall be received at the time the Local Planning Agency addresses such items during this meeting. Pursuant to Resolution 2013-023, public comments are limited to three minutes.

**7. OTHER BUSINESS**

**8. ADJOURNMENT**

Any person requiring a special accommodation at this meeting because of disability or physical impairment should contact the City Clerk's Office at City Hall (352) 360-6727 at least forty-eight (48) hours prior to the meeting. (§286.26 F.S.) If a person decides to appeal any decision made by the City of Fruitland Park with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings and ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The city does not provide verbatim records. (§286.0105, F.S.)

**PLEASE TURN OFF ELECTRONIC DEVICES OR PLACE IN VIBRATE MODE.**

**CITY OF FRUITLAND PARK**  
**LPA AGENDA ITEM SUMMARY SHEET**  
**Item Number: 3**

**ITEM TITLE:** Draft LPA Meeting Minutes  
**For the Meeting of:** August 26, 2021  
**Submitted by:** City Clerk  
**Date Submitted:** August 18, 2021  
**Funds Required:** None  
**Account Number:**  
**Amount Required:** N/A  
**Balance Remaining:** N/A  
**Attachments:** Draft meeting minutes

**Item Description:** June 10, 2021 LPA Minutes

**Action to be Taken:** Approve the meeting minutes as submitted, if there are no corrections.

**Staff's Recommendation:** Approval

**Additional Comments:** None

**City Manager Review:** Yes

**Mayor Authorization:** Yes

**FRUITLAND PARK LOCAL PLANNING AGENCY  
DRAFT MEETING MINUTES  
June 10, 2021  
6:15 p.m.**

A regular meeting of the Fruitland Park Local Planning Agency was held at 506 W. Berckman Street, Fruitland Park, Florida 34731 on Thursday, June 10, 2021 at 6:15 p.m.

**Members Present:** Mayor Chris Cheshire, Vice Mayor John L. Gunter, Jr., Commissioners Chris Bell, Patrick DeGrave, and John Mobilian.

**Members Absent:** Non-Voting Member School Board Member District 2 Dr. Kristi Burns

**Also Present:** City Manager Gary La Venia, City Attorney Anita Geraci-Carver, City Treasurer Jeannine Racine; Police Chief Erik Luce, Public Works Director Robb Dicus; Community Development Director Tracy Kelly; Administrative Assistant Sharon Williams; Human Resources Director Jabari Hopkins, Lake County Fire Rescue Lieutenant Mark Gato; Firefighters Kyle Smalt and John Pawlowski, and City Clerk Esther B. Coulson.

**1. CALL TO ORDER**

Mayor Cheshire called the meeting to order.

ACTION: 6:13.15 p.m. No action was taken.

**2. ROLL CALL**

At Mayor Cheshire's request, Ms. Coulson called the roll and a quorum was declared present.

ACTION: 6:13:39 p.m.

**3. APPROVAL OF MINUTES**

November 12, 2020 LPA meeting

ACTION: 6:14:15 p.m. **On motion of Commissioner Bell, seconded by Vice Mayor Gunter and unanimously carried, the LPA approved the November 12, 2020 LPA meeting minutes as submitted.**

**PUBLIC HEARING**

**4. Public Hearing - Ordinance 2021-007 - SSCPA – 212 E LaVista Street – Petitioner: New Life Presbyterian Church of Lake County Inc.**

Ms. Geraci-Carver read into the record the title of proposed Ordinance 2021-007, the substance of which is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF  
FRUITLAND PARK, PROVIDING FOR A SMALL-SCALE

COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION TO INSTITUTIONAL OF 0.25 ± ACRES OF PROPERTY LOCATED AT 212 EAST LAVISTA STREET, FRUITLAND PARK, FLORIDA; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE.

Mr. Michael "Mike" W. Rankin, LPG Urban and Regional Planners Inc., reported on the number of nine mailings submitted to the surrounding property owners which resulted in no response.

**ACTION: 6:14:15 p.m. A motion was made by Commissioner Mobilian and seconded by Commissioner DeGrave that the LPA recommend the approval of proposed Ordinance 2021-007 as previously cited.**

**There being no one from the public and by unanimous consent, the Mayor Cheshire closed the public hearing.**

**Mayor Cheshire called for a vote on the motion and declared it carried unanimously.**

**5. Public Hearing – Ordinance 2021-006 - SSCPA – 115 S Villa Avenue – Petitioner: New Life Presbyterian Church of Lake County Inc.**

Ms. Geraci-Carver read into the record the title of proposed Ordinance 2021-006, the substance of which is as follows:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, PROVIDING FOR A SMALL-SCALE COMPREHENSIVE PLAN AMENDMENT BY AMENDING THE FUTURE LAND USE PLAN DESIGNATION TO TRANSITIONAL OF 0.26 ± ACRES OF PROPERTY LOCATED AT 115 SOUTH VILLA AVENUE, FRUITLAND PARK, FLORIDA; AUTHORIZING THE CITY MANAGER TO AMEND SAID COMPREHENSIVE PLAN; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SCRIVENER'S ERRORS AND PROVIDING FOR AN EFFECTIVE DATE. (The second reading will be held on June 24, 2021.)

Mr. Rankin reported that a total of 16 total mailings to surrounding property owners yielded no response and relayed the May 20, 2021 Planning and Zoning Board's recommendation of approval on the subject item.

**ACTION: 6:16:14 p.m. On motion of Commissioner Bell and seconded by Vice Mayor Gunter that the LPA recommend the approval of proposed Ordinance 2021-006 as previously cited.**

**There being no one from the public and by unanimous consent, the Mayor Cheshire closed the public hearing.**

**Mayor Cheshire called for a vote on the motion and declared it carried unanimously.**

**END OF PUBLIC HEARING**

**6. UNFINISHED BUSINESSES**

There was no unfinished business to come before the LPA at this time.

ACTION: 6:17:30 p.m. No action was taken.

**7. PUBLIC COMMENTS**

There were no public comments at this time.

ACTION: 6:17:31 p.m. No action was taken.

**8. OTHER BUSINESS**

There was no other business to come before the LPA at this time.

ACTION: 6:17:31 p.m.

**9. ADJOURNMENT**

**The meeting adjourned at 6:18 p.m.**

The minutes were approved at the August 26, 2021 meeting

Signed \_\_\_\_\_  
Esther B. Coulson, MMC City Clerk

Signed \_\_\_\_\_  
Chris Cheshire, Mayor

**CITY OF FRUITLAND PARK**  
**LPA AGENDA ITEM SUMMARY SHEET**  
**Item Number: 4**

**ITEM TITLE:** Public Hearing Private Property Rights Element Ordinance 2021-010

**For the Meeting of:** August 26, 2021

**Submitted by:** City Attorney/City Manager/Community Development Director

**Date Submitted:** August 18, 2021

**Funds Required:**

**Account Number:**

**Amount Required:** N/A

**Balance Remaining:** N/A

**Attachments:** Proposed ordinance, Newspaper Affidavit and House Bill 59

**Item Description:** Ordinance 2021-010 to amend the 2035 Comprehensive Plan Amendment

**Action to be Taken:** Approve Ordinance 2021-010

**Staff's Recommendation:** Approval

**Additional Comments:** None

**City Manager Review:** Yes

**Mayor Authorization:** Yes

## **ORDINANCE 2021-010**

AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, STATE OF FLORIDA, PURSUANT TO THE PROVISIONS OF FLORIDA STATUTE 163.3184; AMENDING THE CITY'S COMPREHENSIVE PLAN; ADDING AND ADOPTING, PRIVATE PROPERTY RIGHTS ELEMENT OF THE COMPREHENSIVE PLAN; DIRECTING THE CITY CLERK TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE SECRETARY OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Fruitland Park, Florida on November 26, 1991, by Ordinance No 91-016, adopted a Comprehensive Plan which incorporated a Future Land Use Element setting forth the goals, objectives, and policies to guide and direct future development and growth; and

**WHEREAS**, the City of Fruitland Park, Florida on March 19, 2017, by Ordinance No 2016-031 adopted a new Comprehensive Plan to govern land use and development through the year 2035;

**WHEREAS**, the City Commission has determined that it is in the best interest of the health, safety and welfare of the citizens of the City of Fruitland Park to adopt a new element to the Comprehensive Plan;

**THEREFORE BE IT ORDAINED BY THE** City Commission of the City of Fruitland Park, Florida, as follows:

**SECTION 1.** The adopted local Comprehensive Plan for the City of Fruitland Park, Florida, as hereby amended.

### **CHAPTER 9** **PRIVATE PROPERTY RIGHTS ELEMENT** **GOALS, OBJECTIVES, AND POLICIES**

**GOAL 9-1: Private Property Rights.** The City of Fruitland Park shall establish a private property rights statement of rights.

**OBJECTIVE 9.1: Local Decision Making.** To ensure that private property rights are considered in local decision making, complying with Florida Statute.

**Policy 9.1.1: Property Owner Rights.** The City will consider the right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

**Policy 9.1.2: Consistency with Local Ordinances.** The City will consider the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances including but not limited to the City of Fruitland Park Comprehensive Plan and Land Development Code.



Policy 9.1.3: **Property Owner Privacy.** The City will consider the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property in accordance with Florida law.

Policy 9.1.4: **Disposal of Property.** The City will consider the right of a property owner to dispose of his or her property through sale or gift.

**SECTION 2.** With the recommendations of the City Commission, the proposed Comprehensive Plan Amendment are hereby transmitted by the City Commission to the Florida Department of Economic Opportunity for appropriate review and/or approval.

**SECTION 3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4.** If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by a Court or competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of said Ordinance.

**SECTION 5.** A copy of said Comprehensive Plan Amendment is filed in the Office of the City Clerk of the City of Fruitland Park as a matter of permanent record of the City and that matters and contents therein are made a part of this ordinance by reference as fully and completely as if set forth herein, and such copy shall remain on file in said office available for public inspection.

**SECTION 6.** That the City Clerk, after passage of this ordinance, is hereby directed to indicate the changes adopted in this Ordinance and to reflect the same in the Comprehensive Land Use Plan of the City of Fruitland Park.

**SECTION 7.** The effective date of this Ordinance shall be the date the state land planning agency issues a final order determining the Comprehensive Plan, as attached hereto and amended prior to this Ordinance becoming effective, to be in compliance with Chapter 163, Florida Statutes, or the date the Division of Administrative Hearings issues a final order determining the adopted 2035 Comprehensive Plan to be in compliance with Chapter 163, Florida Statutes, whichever occurs first.

**PASSED AND ORDAINED** in regular session of the City Commission of the City of Fruitland Park, Lake County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Chris Cheshire, Mayor  
City of Fruitland Park, Florida

ATTEST:

Approved as to Form:

\_\_\_\_\_  
Esther Coulson, MMC, City Clerk

\_\_\_\_\_  
Anita Geraci-Carver, City Attorney

Mayor Cheshire \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Vice-Mayor Gunter \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Bell \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner DeGrave \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)  
Commissioner Mobilian \_\_\_\_\_ (Yes), \_\_\_\_\_ (No), \_\_\_\_\_ (Abstained), \_\_\_\_\_ (Absent)

Passed First Reading \_\_\_\_\_

Passed Second Reading \_\_\_\_\_  
(SEAL)

**CHAPTER 9**  
**PRIVATE PROPERTY RIGHTS ELEMENT**  
**GOALS, OBJECTIVES, AND POLICIES**

**GOAL 9-1: Private Property Rights.** The City of Fruitland Park shall establish a private property rights statement of rights.

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**Policy 9.1.2: Consistency with Local Ordinances.** The City will consider the right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances including but not limited to the City of Fruitland Park Comprehensive Plan and Land Development Code.

**Policy 9.1.3: Property Owner Privacy.** The City will consider the right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property in accordance with Florida law.

**Policy 9.1.4: Disposal of Property.** The City will consider the right of a property owner to dispose of his or her property through sale or gift.

The Villages  
**DAILY SUN**

Published Daily  
Lady Lake, Florida  
State of Florida  
County Of Lake

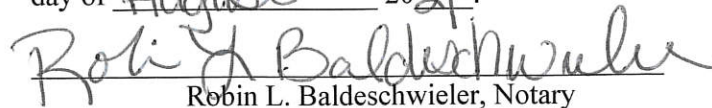
Before the undersigned authority personally appeared **Joseph Szabo**, who on oath says that she is Legal Ad Coordinator of the DAILY SUN, a daily newspaper published at Lady Lake in Lake County, Florida with circulation in Lake, Sumter and Marion Counties; that the attached copy of advertisement, being a Legal #1015867 in the matter of **NOTICE OF PUBLIC HEARINGS**

**AUGUST 6, 2021**

Affiant further says that the said Daily Sun is a newspaper published at Lady Lake in said Lake County, Florida, and that the said newspaper has heretofore been continuously published in said Lake County, Florida each week and has been entered as second class mail matter at the post office in Lady Lake, in said Lake County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisements; and affiant further says that he has neither paid nor promised any person, firm, or Corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for Publication in the said newspaper.

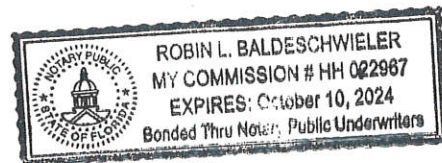
  
(Signature Of Affiant)

Sworn to and subscribed before me this 9  
day of August 2021.

  
Robin L. Baldeschwieler, Notary

Personally Known X or  
Production Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

Attach Notice Here:



**NOTICE OF  
PUBLIC HEARINGS**

**ORDINANCE 2021-010**

**AN ORDINANCE OF THE CITY OF FRUITLAND PARK, LAKE COUNTY, STATE OF FLORIDA, PURSUANT TO THE PROVISIONS OF FLORIDA STATUTE 163.3184; AMENDING THE CITY'S COMPREHENSIVE PLAN; ADDING AND ADOPTING, PRIVATE PROPERTY RIGHTS ELEMENT OF THE COMPREHENSIVE PLAN; DIRECTING THE CITY CLERK TO PROVIDE CERTIFIED COPIES OF THIS ORDINANCE AFTER APPROVAL TO THE CLERK OF THE CIRCUIT COURT, THE LAKE COUNTY MANAGER AND THE SECRETARY OF STATE OF THE STATE OF FLORIDA; PROVIDING FOR AN EFFECTIVE DATE.**

The proposed Ordinance will be considered at the following public meetings:

- Fruitland Park Planning and Zoning Meeting on August 19, 2021 at 6:00 p.m.
- Fruitland Park City Commission Meeting on August 26, 2021 at 6:00 p.m.
- Local Land Planning Agency Meeting on August 26, 2021 at 6:15 p.m.

The public meetings will be held in the Commission Chambers located at City Hall, 506 West Berckman Street, Fruitland Park FL 34731. The proposed ordinance may be inspected by the public during normal working hours at City Hall. For further information call 352-360-6727. Interested parties may appear at the meetings and will be heard with respect to the proposed ordinance.

A person who decides to appeal any decision made by any board, agency or council with respect to any matter considered at such meeting or hearing, will need a record of the proceedings. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence upon which the appeal is based (Florida Statutes, 286.0105). Persons with disabilities needing assistance to participate in any of these proceedings should contact Esther Coulson, City Clerk at (352) 360-6790 at least 48 hours before the date of the scheduled hearing. For such purposes, any such person may need to ensure that a verbatim record of the proceedings is made, which includes the testimony and evidence which the appeal is based (Florida Statutes 286.0105).

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CS/CS/CS/HB 59, Engrossed 1

2021 Legislature

1  
2 An act relating to growth management; amending s.  
3 163.3167, F.S.; specifying requirements for certain  
4 comprehensive plans effective, rather than adopted,  
5 after a specified date and for associated land  
6 development regulations; amending s. 163.3177, F.S.;  
7 requiring local governments to include a property  
8 rights element in their comprehensive plans; providing  
9 a statement of rights which a local government may  
10 use; requiring a local government to adopt a property  
11 rights element by the earlier of its adoption of its  
12 next proposed plan amendment initiated after a certain  
13 date or the next scheduled evaluation and appraisal of  
14 its comprehensive plan; prohibiting a local  
15 government's property rights element from conflicting  
16 with the statement of rights contained in the act;  
17 amending s. 163.3237, F.S.; providing that the consent  
18 of certain property owners is not required for  
19 development agreement changes under certain  
20 circumstances; providing an exception; amending s.  
21 337.25, F.S.; requiring the Department of  
22 Transportation to afford a right of first refusal to  
23 certain individuals under specified circumstances;  
24 providing requirements and procedures for the right of  
25 first refusal; amending s. 380.06, F.S.; authorizing

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2021 Legislature

26 |       certain developments of regional impact agreements to  
 27 |       be amended under certain circumstances; providing  
 28 |       retroactive applicability; providing a declaration of  
 29 |       important state interest; providing an effective date.

30 |

31 | Be It Enacted by the Legislature of the State of Florida:

32 |

33 |       Section 1. Subsection (3) of section 163.3167, Florida  
 34 | Statutes, is amended to read:

35 |       163.3167 Scope of act.—

36 |       (3) A municipality established after the effective date of  
 37 | this act shall, within 1 year after incorporation, establish a  
 38 | local planning agency, pursuant to s. 163.3174, and prepare and  
 39 | adopt a comprehensive plan of the type and in the manner set out  
 40 | in this act within 3 years after the date of such incorporation.

41 | A county comprehensive plan is controlling until the  
 42 | municipality adopts a comprehensive plan in accordance with this  
 43 | act. A comprehensive plan for a newly incorporated municipality  
 44 | which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and  
 45 | all land development regulations adopted to implement the  
 46 | comprehensive plan must incorporate each development order  
 47 | existing before the comprehensive plan's effective date, may not  
 48 | impair the completion of a development in accordance with such  
 49 | existing development order, and must vest the density and  
 50 | intensity approved by such development order existing on the

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2021 Legislature

51 effective date of the comprehensive plan without limitation or  
 52 modification.

53 Section 2. Paragraph (i) is added to subsection (6) of  
 54 section 163.3177, Florida Statutes, to read:

55 163.3177 Required and optional elements of comprehensive  
 56 plan; studies and surveys.—

57 (6) In addition to the requirements of subsections (1)-  
 58 (5), the comprehensive plan shall include the following  
 59 elements:

60 (i)1. In accordance with the legislative intent expressed  
 61 in ss. 163.3161(10) and 187.101(3) that governmental entities  
 62 respect judicially acknowledged and constitutionally protected  
 63 private property rights, each local government shall include in  
 64 its comprehensive plan a property rights element to ensure that  
 65 private property rights are considered in local decisionmaking.  
 66 A local government may adopt its own property rights element or  
 67 use the following statement of rights:

68  
 69 The following rights shall be considered in local  
 70 decisionmaking:

71  
 72 1. The right of a property owner to physically  
 73 possess and control his or her interests in the  
 74 property, including easements, leases, or mineral  
 75 rights.

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2021 Legislature

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2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

4. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

Section 3. Section 163.3237, Florida Statutes, is amended to read:

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by



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101 mutual consent of the parties to the agreement or by their  
 102 successors in interest. A party or its designated successor in  
 103 interest to a development agreement and a local government may  
 104 amend or cancel a development agreement without securing the  
 105 consent of other parcel owners whose property was originally  
 106 subject to the development agreement, unless the amendment or  
 107 cancellation directly modifies the allowable uses or  
 108 entitlements of such owners' property.

109 Section 4. Subsection (4) of section 337.25, Florida  
 110 Statutes, is amended to read:

111 337.25 Acquisition, lease, and disposal of real and  
 112 personal property.—

113 (4) The department may convey, in the name of the state,  
 114 any land, building, or other property, real or personal, which  
 115 was acquired under subsection (1) and which the department has  
 116 determined is not needed for the construction, operation, and  
 117 maintenance of a transportation facility. When such a  
 118 determination has been made, property may be disposed of through  
 119 negotiations, sealed competitive bids, auctions, or any other  
 120 means the department deems to be in its best interest, with due  
 121 advertisement for property valued by the department at greater  
 122 than \$10,000. A sale may not occur at a price less than the  
 123 department's current estimate of value, except as provided in  
 124 paragraphs (a)-(d). The department may afford a right of first  
 125 refusal to the local government or other political subdivision

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2021 Legislature

126 | in the jurisdiction in which the parcel is situated, except in a  
127 | conveyance transacted under paragraph (a), paragraph (c), or  
128 | paragraph (e). Notwithstanding any provision of this section to  
129 | the contrary, before any conveyance under this subsection may be  
130 | made, except a conveyance under paragraph (a) or paragraph (c),  
131 | the department shall first afford a right of first refusal to  
132 | the previous property owner for the department's current  
133 | estimate of value of the property. The right of first refusal  
134 | must be made in writing and sent to the previous owner via  
135 | certified mail or hand delivery, effective upon receipt. The  
136 | right of first refusal must provide the previous owner with a  
137 | minimum of 30 days to exercise the right in writing and must be  
138 | sent to the originator of the offer by certified mail or hand  
139 | delivery, effective upon dispatch. If the previous owner  
140 | exercises his or her right of first refusal, the previous owner  
141 | has a minimum of 90 days to close on the property. The right of  
142 | first refusal set forth in this subsection may not be required  
143 | for the disposal of property acquired more than 10 years before  
144 | the date of disposition by the department.

145 | (a) If the property has been donated to the state for  
146 | transportation purposes and a transportation facility has not  
147 | been constructed for at least 5 years, plans have not been  
148 | prepared for the construction of such facility, and the property  
149 | is not located in a transportation corridor, the governmental  
150 | entity may authorize reconveyance of the donated property for no

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2021 Legislature

151 consideration to the original donor or the donor's heirs,  
152 successors, assigns, or representatives.

153 (b) If the property is to be used for a public purpose,  
154 the property may be conveyed without consideration to a  
155 governmental entity.

156 (c) If the property was originally acquired specifically  
157 to provide replacement housing for persons displaced by  
158 transportation projects, the department may negotiate for the  
159 sale of such property as replacement housing. As compensation,  
160 the state shall receive at least its investment in such property  
161 or the department's current estimate of value, whichever is  
162 lower. It is expressly intended that this benefit be extended  
163 only to persons actually displaced by the project. Dispositions  
164 to any other person must be for at least the department's  
165 current estimate of value.

166 (d) If the department determines that the property  
167 requires significant costs to be incurred or that continued  
168 ownership of the property exposes the department to significant  
169 liability risks, the department may use the projected  
170 maintenance costs over the next 10 years to offset the  
171 property's value in establishing a value for disposal of the  
172 property, even if that value is zero.

173 (e) If, at the discretion of the department, a sale to a  
174 person other than an abutting property owner would be  
175 inequitable, the property may be sold to the abutting owner for

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2021 Legislature

176 the department's current estimate of value.

177 Section 5. Paragraph (d) of subsection (4) of section  
178 380.06, Florida Statutes, is amended to read:

179 380.06 Developments of regional impact.—

180 (4) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

181 (d) Any agreement entered into by the state land planning  
182 agency, the developer, and the local government with respect to  
183 an approved development of regional impact previously classified  
184 as essentially built out, or any other official determination  
185 that an approved development of regional impact is essentially  
186 built out, remains valid unless it expired on or before April 6,  
187 2018, and may be amended pursuant to the processes adopted by  
188 the local government for amending development orders. Any such  
189 agreement or amendment may authorize the developer to exchange  
190 approved land uses, subject to demonstrating that the exchange  
191 will not increase impacts to public facilities. This paragraph  
192 applies to all such agreements and amendments effective on or  
193 after April 6, 2018.

194 Section 6. The Legislature finds and declares that this  
195 act fulfills an important state interest.

196 Section 7. This act shall take effect July 1, 2021.

**CITY OF FRUITLAND PARK  
AGENDA ITEM SUMMARY SHEET  
Item Number: 6**

<b>ITEM TITLE:</b>	<b>Public Comments</b>
<b>For the Meeting of:</b>	August 26, 2021
<b>Submitted by:</b>	City Clerk
<b>Date Submitted:</b>	August 14, 2021
<b>Funds Required:</b>	None
<b>Account Number:</b>	N/A
<b>Amount Required:</b>	N/A
<b>Balance Remaining:</b>	N/A
<b>Attachments:</b>	Yes, Resolution 2013-023, Public Participation Policy and Chapter 286 Florida Statutes

**Item Description:** This section is reserved for members of the public to bring up matters of concern or opportunities for praise. Action may not be taken by the governing body at this meeting; however, questions may be answered by staff or issues may be referred for appropriate staff action.

Note: Pursuant to F.S. 286.0114 and the City of Fruitland Park’s Public Participation Policy adopted by Resolution 2013-023, members of the public shall be given a reasonable opportunity to be heard on propositions before the Local Planning Agency (LPA). Accordingly, comments, questions, and concerns regarding items listed on this agenda shall be received at the time the LPA addresses such items during this meeting. Pursuant to Resolution 2013-023, public comments are limited to three minutes.

**Action to be Taken:** **None**

**Staff’s Recommendation:** N/A

**Additional Comments:** N/A

**City Manager Review:** Yes

**Mayor Authorization:** Yes

**RESOLUTION 2004-014**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK, FLORIDA; RELATING TO QUASI-JUDICIAL HEARINGS; ESTABLISHING PROCEDURES FOR THE DISCLOSURE OF EX PARTE COMMUNICATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Florida Statute 286.0115 allows municipalities to remove the presumption of prejudice attached to ex parte communications with local public officials in quasi-judicial proceedings through the adoption of a resolution or ordinance establishing a process for the disclosure of such communications; and

**WHEREAS**, the City Commission of the City of Fruitland Park desires to implement the provisions of F.S. 286.0115 with respect to quasi-judicial proceedings which occur before the City Commission as well as city boards and committees.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FRUITLAND PARK:**

**Section 1.** The following procedures shall apply with regards to any quasi-judicial matters before the City Commission or any board or committee of the City:

**Procedures for quasi-judicial hearings;  
Disclosure of ex parte communications.**

(a) *Intent.* Pursuant to Section 286.0115(1), Florida Statutes, it is the intent of the city commission that this section is intended to remove the presumption of prejudice from *ex parte* communications with city officials and to permit, among other things, site visits, the receipt of expert opinion, and the review of mail and other correspondence relating to quasi-judicial proceedings by said city officials. .

(b) *Definitions.* As used in this section, the following terms shall be defined as follows:

- (1) "City official" means and refers to any elected or appointed public official holding a municipal position or office who recommends or takes quasi-judicial action as a member of a city board, commission, or committee, including, but not limited to, a member of the city commission, the code enforcement board, the planning and zoning board, or the local planning agency.
- (2) "*Ex parte* communication" means a communication involving a city official and a member of the public, regarding a pending quasi-judicial action, such that the city official may be exposed to only one perspective

or part of the evidence with regard to a quasi-judicial action pending before the commission or board on which the city official serves. *Ex parte* communications occur at other than a public meeting of the board on which the city official serves at which the quasi-judicial action discussed has been publicly noticed.

- (3) "Member of the public" refers to any person interested in a quasi-judicial action, including, but not limited to, an applicant, an officer or member of a homeowner's association, an officer or member of an environmental, homebuilding/development, or concerned citizen's organization, an official or employee of a governmental entity other than the City, a developer, a property owner, or an interested citizen, or a representative of or attorney for any of the foregoing.
- (4) "Quasi-judicial" refers to a land use, land development, zoning, or building related permit, application or appeal, as set forth below, in which city officials give notice and an opportunity to be heard to certain substantially affected persons, investigate facts, ascertain the existence of facts, hold hearings, weigh evidence, draw conclusions from the facts, and apply the law to the facts, as the basis for their decision.
- (5) "Site visit" means an inspection of real property subject to an application for any quasi-judicial action prior to a public hearing on the application conducted by a city official. The mere act of driving by a site in the daily course of driving to a particular location, such as work or a particular store, which act is not undertaken for the purpose of inspecting a particular parcel of real property is not a site visit for purposes of this section.

(c) *Ex parte communications between city officials and members of the public.*

- (1) A member of the public not otherwise prohibited by statute, charter provision or ordinance may have an *ex parte* communication with any city official regarding any quasi-judicial matter on which action may be taken by the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) below.
- (2) Except as otherwise provided by statute, charter provision, or ordinance, any city official may have an *ex parte* communication with any expert witness or consultant regarding any quasi-judicial matter on which action may be taken by the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) below. Nothing here,

however, shall restrict a city official access to city staff or expert witness or consultant retained by the City.

(3) Disclosure.

- (A) All city officials shall disclose the occurrence of all *ex parte* communications or discussions with a member of the public or an expert witness or consultant involving said city official which relate to the quasi-judicial action pending before the commission or board on which the city official serves.
- (B) Disclosure shall occur by no later than the final public hearing, or if no formal public hearing is held, then any hearing at which the final decision regarding the quasi-judicial matter is made. The city official shall disclose the *ex parte* communication verbally or by memorandum. Any such memorandum disclosing the occurrence of the *ex parte* communication shall be placed in the official file regarding the pending quasi-judicial matter which file shall be maintained in the City Clerk's records.
- (C) At the time of disclosure, the city official shall identify the person, group, or entity with whom the *ex parte* communication took place, the substance of the *ex parte* communication, and any matters discussed which are considered by the city official to be material to said city official's decision in the pending quasi-judicial matter.
- (d) *Oral or written communications between city staff and city officials.* City officials may discuss quasi-judicial matters pending before the commission or board on which said city official serves with city staff without the requirement to disclose pursuant to sub-section (c)(3) above.
- (e) *Site visits by city officials.* Any city official may conduct a site visit of any property related to a quasi-judicial matter pending before the commission or board on which the city official serves; provided, that the city official adheres to the disclosure requirements set forth in sub-section (c)(3) above. Any disclosure of a site visit pursuant to sub-section (c)(3) shall disclose the existence of the site visit, and any information obtained by virtue of the site visit considered by the city official to be material to said official's decision regarding the pending quasi-judicial matter.
- (f) *Review of mail, correspondence, and written communications by city officials.* Any city official may review mail, correspondence, or written communications, related to a quasi-judicial matter pending before the commission or board on which the city official serves. Upon review of the mail, correspondence, or



written communication, the document shall be placed in the official file regarding the pending quasi-judicial matter and maintained in the city clerk's records.

- (g) *City clerk's file.* All correspondence, mail, or written communications reviewed by city officials prior to the final hearing on a pending quasi-judicial matter shall be placed in the official file regarding said matter and maintained by the city clerk. Said correspondence, mail, or written communications reviewed by city officials prior to the final hearing on a pending quasi-judicial matter, or any disclosure memoranda as described in sub-section (c)(3)(B), shall be available for public inspection. By no later than the final public hearing, or if no formal public hearing is held, then at any hearing at which the final decision regarding the quasi-judicial matter is made, the city clerk shall make said correspondence, mail, written communications, or other matters, and any disclosure memoranda placed in the official file, a part of the record. All of the foregoing documents shall be received by the commission or board as evidence, with the exception of disclosure memoranda, subject to any objections interposed by participants at the hearing.
- (h) *Opportunity to comment upon substance of disclosure.* At such time that a disclosure regarding an *ex parte* communication, receipt of an expert opinion, site visit, or review of mail, correspondence, or other written communication is made a part of the record at a hearing, persons who may have opinions or evidence contrary to those expressed in the *ex parte* communication, expert opinion, or mail, correspondence, or other written communication, or noted during the site visit, shall be given a reasonable opportunity to refute or respond and provide contrasting information, evidence, or views.

**Section 2.** If any section, sentence, clause, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portion of this ordinance.

**Section 3.** This resolution shall be effective upon passage.

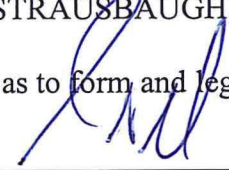
**PASSED AND RESOLVED** this 24<sup>th</sup> day of June, 2004, by the City Commission of the City of Fruitland Park, Florida.

  
\_\_\_\_\_  
JOHN L. GUNTER, JR., VICE MAYOR

ATTEST:

  
\_\_\_\_\_  
MARGE STRAUSBAUGH, CITY CLERK

Approved as to form and legality:

  
\_\_\_\_\_  
Scott A. Gerken, City Attorney



Select Year:  

## The 2018 Florida Statutes

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[Title XIX](#)[Chapter 286](#)[View Entire Chapter](#)

## PUBLIC BUSINESS

## PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

**286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.—**

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term “local public official” means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasi-judicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasi-judicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However, this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decisionmaking body who is not a party or party-intervenor shall be allowed to testify before the decisionmaking

body, subject to control by the decisionmaking body, and may be requested to respond to questions from the decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decisionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure of such communications by a member of the decisionmaking body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decisionmaking body. All decisions of the decisionmaking body in a quasi-judicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

History.—s. 1, ch. 95-352; s. 31, ch. 96-324.