

A Model for Smart Growth Management: Florida enacts landmark legislation to protect water and natural resources, while directing appropriate growth in Wekiva River basin.

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The problem: How to provide an essential transportation corridor in central Florida while protecting and preserving regional water supply, rivers, springs and endangered wildlife.

The answer: The Wekiva Parkway and Protection Act.

Introduction

The Wekiva River in the central Florida peninsula is a unique natural water body that derives its base flow from numerous springs having as their source the Floridan Aquifer. The Wekiva River basin consists of the river and its tributary system, associated wetlands and surrounding uplands. The Wekiva basin provides essential recharge to the Floridan Aquifer, which in turn provides the Florida peninsula with its major source of potable water. The Wekiva basin is abundant in diverse habitat and is an essential link in a wildlife corridor connecting to the Ocala National Forest and serving such species as the Florida black bear. The Wekiva River and its tributaries have been designated a National Wild and Scenic River, a Florida Wild and Scenic River, an Outstanding Florida Water, and a Florida Aquatic Preserve.

Since the early 1980s, the central Florida peninsula has experienced tremendous growth. That growth has resulted in an overburdened transportation system and placed development pressures on the land surrounding the Wekiva River basin. Heavily traveled Interstate 4 runs from Tampa through Orlando and then northeast within a few miles of the Wekiva River. A western beltway around Orlando has long been recognized as a desirable route to relieve transportation woes. However, a western beltway would almost certainly have negative impacts on the Wekiva River basin.

In 1988 Florida enacted legislation specifically designed to protect the Wekiva basin. Since then Florida has enacted legislation to study ways to relieve central Florida's transportation pressures. Finally, in 2004 Florida enacted the Wekiva Parkway and Protection Act (WPPA) designed to provide the much-needed western beltway around Orlando and protect the environmentally sensitive Wekiva River basin. This article briefly describes legislation leading up to the WPPA and then examines the crucial elements of the WPPA.

Wekiva River Protection Act

Florida Governor Bob Martinez in 1988 promulgated Executive Order 88-26 creating the Wekiva River Task Force (1988 Task Force). The 1988 Task Force was given the mandate of formulating a plan to protect the Wekiva River system. That same year, the Florida Legislature enacted the Wekiva River Protection Act (WRPA).

Chapters 88-121 and 88-393, Laws of Florida, codified at Part II, Chapter 369, Fla. Stat. The WRPA delineated an area including portions of Lake, Orange, and Seminole Counties as the Wekiva River Protection Area (Protection Area). The WRPA required the counties in the Protection Area to amend their comprehensive plans and land development regulations to include “goals, policies, and objectives” to protect the water quantity, quality, and hydrology of the Wekiva River System, associated wetlands, aquatic and wetland-dependant wildlife, habitat, and native vegetation. S. 369.305(1)(a), Fla. Stat.

Wekiva Basin Area Task Force

Recognizing the tremendous growth occurring in central Florida would “compel the careful balance of improving highway corridors and roadways while protecting the Wekiva Basin Area,” Florida Governor Jeb Bush in September 2002 promulgated Executive Order 02-259 creating the Wekiva Basin Area Task Force (2002 Task Force). The 2002 Task Force was charged with the duty to consider, evaluate, and make recommendations concerning (1) an appropriate location for a highway route connecting State Road 429 to Interstate 4 providing the greatest protection and least disruption to the Wekiva Basin; and (2) a transportation plan evaluating the diverse considerations associated with potential road expansion within the Wekiva Basin.

The 2002 Task Force presented its final report to Governor Bush on January 26, 2003. As to the transportation issue, the 2002 Task Force recognized: “Just as population growth has placed pressures on water supply and the unique resources of the Wekiva River Basin ecosystem, so has it created an ever-increasing demand on the transportation network.” Wekiva Basin Area Task Force Final Report 4 (January 15, 2003) *available at* <http://www.wekivacommittee.org/wekivatf/January03/WekivaReport.pdf>. The 2002 Task Force saw a western beltway around Orlando as an essential element of any plan to cure the area’s transportation woes.

The 2002 Task Force recommended an approximate location for a corridor connecting State Road 429 in Apopka to Interstate 4, and envisioned the creation of a scenic highway similar to the Blue Ridge Parkway. Wekiva Basin Area Task Force Final Report 9. In keeping with this vision, the 2002 Task Force recommended a set of guiding principals for creating a corridor that would serve regional transportation needs without promoting development, and that would minimize impacts on wetlands, springshed and ground water recharge areas. *Id.* A bill adopting the recommendations of the 2002 Task Force was introduced in the 2003 Florida legislative session but failed to pass after a long and contentious battle.

Wekiva River Basin Coordinating Committee

Recognizing a need for guidelines designed to balance land use planning, private property rights, and protection of the Wekiva River basin, Governor Bush in July 2003 promulgated Executive Order 2003-112 creating the Wekiva River Basin Coordinating Committee (the Committee). The Committee’s membership included officials from

government agencies, regional county and municipal governments, private businesses, environmental organizations, citizens groups, property owners, and the agricultural community. The Committee was charged with the following responsibilities:

- (1) delineate a land area that contributes surface and ground water to the Wekiva River system to be known as the Wekiva Study Area (WSA);
- (2) identify enhanced land use planning strategies and development standards consistent with protected property rights that improve and assure protection of surface and ground water resources including recharge potential;
- (3) consider, evaluate, and make recommendations concerning
 - (a) mechanisms for coordinating state, federal, regional and local efforts to protect rivers, springs, wetlands, and groundwater recharge in the WSA;
 - (b) state and regional agency action;
 - (c) public education; and
 - (d) implementation of identified land use planning strategies and development standards in communities in the WSA.

The Committee presented its final report to Governor Bush in March 2004. The Committee made detailed recommendations consistent with those of the 2002 Task Force designed to accomplish the following goals: (1) Build the Wekiva Parkway; (2) protect the Wekiva River basin environment; and (3) promote innovative planning and development. The Committee also recommended implementation strategies to achieve those goals.

Wekiva Parkway and Protection Act

Senator Lee Constantine, who served as chairman of the Committee, introduced into the 2004 Florida Legislative Session Senate Bill 1214, which incorporated the Committee's recommendations as a whole, integrated into a unified plan. Senate Bill 1214 was favorably considered and adopted by the Legislature and signed into law by Governor Bush on June 29, 2004 as the Wekiva Parkway and Protection Act (the WPPA). Chapter 2004-384, Laws of Florida, codified at Part III, Chapter 369, Florida Statutes. The major provisions of the WPPA are:

Land Acquisition

The WPPA requires the acquisition of land to provide the right-of-way for the Wekiva Parkway and to protect the surface water and groundwater resources of the WSA, including recharge within the Wekiva River springshed area. S. 369.317(6)(a), (b), Fla. Stat. (2004). The Florida Department of Transportation (FDOT), Department of

Environmental Protection (FDEP), St. Johns River Water Management District (SJRWMD), Orlando-Orange County Expressway Authority, and other land acquisition entities are responsible for cooperating to establish funding opportunities to acquire the necessary lands. S. 369.317(7), Fla. Stat.

Studies

The WPPA requires the FDEP to study water treatment standards necessary to “achieve nitrogen reductions protective of the surface and groundwater quality” within the WSA and authorizes FDEP to initiate rulemaking to achieve such nitrogen reductions that will be protective of surface and groundwater quality. S. 369.318(1), Fla. Stat.

The Florida Department of Health (FDOH) is required to coordinate with the FDEP to conduct a study regarding what onsite sewage disposal system standards are needed to achieve nitrogen reductions that will be protective of groundwater quality within the WSA, including publicly owned lands, and to initiate rulemaking to achieve nitrogen reductions protective of water quality. S. 369.318(2), Fla. Stat. The FDOH must consider more stringent levels of wastewater treatment, and the implementation of a septic tank maintenance and inspection program within the Wekiva River Protection Area. *Id.*

The SJRWMD is required to initiate rulemaking to amend its recharge criteria rule to apply to all recharge lands within the WSA, and to provide that post-development recharge volume conditions approximate pre-development recharge volume conditions within the WSA. S. 369.318(3), (4), Fla. Stat. The SJRWMD must also adopt a consolidated environmental resource/consumptive use permit for projects requiring both permits for irrigation of urban landscape, golf courses, or recreational areas. S. 369.318(5), Fla. Stat.

The SJRWMD must analyze the impact of redevelopment projects in the Wekiva River basin on aquifer recharge. S. 369.318(6), Fla. Stat. The SJRWMD must update the minimum flows and levels standards for Rock Springs and Wekiva Springs, and revise consumptive use permit thresholds in the WSA to address proposed water withdrawals above 50,000 gallons/day. S. 369.318(7), Fla. Stat. Finally, the SJRWMD must establish pollution load reduction goals for the WSA to assist the FDEP in adopting total maximum daily loads for impaired waters within the WSA. S. 369.318(8), Fla. Stat. The Department of Agriculture and Consumer Services is the lead agency in coordinating the reduction of agricultural nonpoint sources of pollution. S. 369.318(9), Fla. Stat.

Stormwater and Wastewater Management Plans

The WPPA requires each local government within the WSA to develop a master stormwater management plan and identify a funding source for the plan. S. 369.319, Fla. Stat. Each local government within the WSA must also “develop a wastewater facility plan for joint planning areas and utility service areas where central wastewater systems

are not readily available,” and establish a water reuse program allowing for reuse of reclaimed water. S. 369.320, Fla. Stat.

Comprehensive Plan Amendment

The WPPA requires local governments within the WSA to amend their comprehensive plans and implement land use regulations to:

- Adopt an interchange land use plan (for those local governments hosting an interchange);
- Ensure implementation of the master stormwater management plan;
- Establish land use strategies that optimize open space and promote a pattern of development that protects recharge areas, karst features, and sensitive natural habitats;
- Establish an up-to-date 10-year water supply facility work plan for building potable water facilities necessary to serve existing and new development.

S. 369.321, Fla. Stat. In reviewing local government comprehensive plan amendments for property within the WSA, the Florida Department of Community Affairs (DCA) and the SJRWMD must assure that any amendments increasing development potential demonstrate that adequate potable water consumptive use permit capacity is available. S. 369.322(1), Fla. Stat. Local governments must coordinate with the SJRWMD and local utilities to implement cooperative solutions for development of alternative water sources. S. 369.322(2), Fla. Stat.

Wekiva River Basin Commission

The WPPA creates a 19-member commission to monitor and ensure implementation of the recommendations of the Committee. The commission will report annually to the Governor, the Legislature, and the DCA on implementation progress. S. 369.324, Fla. Stat.

Conclusion

The WPPA has been described as “landmark legislation” that provides a blueprint for “building an environmentally sensitive expressway, protecting rivers, springs and wildlife habitat while meeting” transportation needs. *See* Press Release (June 29, 2004) *available at* <http://www.wekivacommittee.org/wekivaact/pressrelease.htm>. The WPPA may be, as Senator Constantine has called it, “the most important piece of legislation in central Florida’s long term future.” The WPPA was long and hard in coming, and represents the collaborative efforts of diverse groups including local governments, communities, environmental organizations, and transportation planners. The future will reveal whether Florida through the WPPA will achieve its goals of successfully providing for transportation needs and protecting the environment. If successful, the WPPA may provide a model for many communities with needs of similar character and urgency.