



ITEM NO. (ID # 3330)

DATE: 02/09/2016

AGENDA REQUEST

*CONSENT AGENDA\COUNTY ATTORNEY

TO: Board of County Commissioners

PRESENTED BY: Daniel S. McIntyre, County Attorney

SUBMITTED BY: County Attorney

SUBJECT: Stop Gap Ordinance - Commercial Composting Facilities - Permission to Advertise

BACKGROUND:

At the Board's January 12, 2016 informal meeting the Board generally discussed the issue of regulating the location and use of commercial composting facilities. The Board requested that the County staff study the issue and develop regulations as appropriate to be presented to the Board upon completion of the study. Attached is a draft Ordinance which, if adopted, would postpone the issuance of development permits for commercial composting facilities for the earlier of 1) a period of three hundred thirty (330) days from the adoption of the Stop Gap Ordinance or 2) the effective date of the adoption of regulations resulting from the study. This Ordinance is not intended to affect backyard composting by residential homeowners on their own property.

PREVIOUS ACTION:

N/A

FINANCIAL IMPACT:

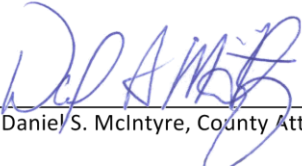
N/A

RECOMMENDATION:

Staff recommends that the Board grant permission to advertise the draft Stop Gap Ordinance.

COMMISSION ACTION:

Coordination/Signatures



Daniel S. McIntyre, County Attorney

2/3/2016

ORDINANCE NO. 16-XXX

AN ORDINANCE OF ST. LUCIE COUNTY, FLORIDA, (THE "COUNTY"), PROVIDING FOR POSTPONEMENT OF ISSUANCE OF CERTAIN COMPREHENSIVE PLAN AMENDMENTS AND CONCERNING DEVELOPMENT ORDERS WITHIN UNINCORPORATED ST. LUCIE COUNTY CONCERNING DEVELOPMENT WHICH INVOLVES COMMERCIAL COMPOSTING FACILITIES DURING A SPECIFIED TERM; PROVIDING FOR WAIVER, VESTED RIGHTS, APPEALS, EXHAUSTION OF ADMINISTRATIVE REMEDIES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE; PROVIDING FOR AN EFFECTIVE DATE AND ADOPTION

WHEREAS, the Board of County Commissioners ("Board") of St. Lucie County ("County"), Florida, presently is working with its staff and professional consultants to prepare comprehensive plan amendments and land development regulations that will govern the location and development of commercial facilities in the unincorporated County that will process solid waste or biosolids (domestic wastewater residuals) to produce compost; and

WHEREAS, the Board finds that the regulation of commercial composting facilities is necessary and appropriate to guide the future use and development of land in the unincorporated County, and to protect the public health, welfare and safety, including but not limited to the environmental resources of the County and surrounds areas; and

WHEREAS, the Board wishes to ensure that all amendments to the County's comprehensive plan, amendments to the County's Official Zoning Atlas, and the issuance of development orders concerning commercial composting facilities are temporarily postponed until the County has a reasonable opportunity to complete its analysis of the relevant issues, and complete the formulation and implementation of the necessary amendments to the County's comprehensive plan, zoning code, and other land development regulations (collectively, the "Regulations"); and

WHEREAS, the County's Local Planning Agency has reviewed the provisions in this Ordinance and determined that these provisions are consistent with the applicable provisions in the County's Comprehensive Plan.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of St. Lucie County, Florida as follows:

Section 1. RECITALS ADOPTED.

Each of the recitals set forth above is hereby adopted and confirmed.

Attachment 8.C.3.a: Stop Gap Ordinance (3330 : Stop Gap Ordinance - Commercial Composting Facilities - Permission to Advertise)

Section 2. TEMPORARY POSTPONEMENT OF CERTAIN COUNTY ACTIONS; APPLICABILITY.

A. During the time that this Ordinance is in effect, as specified in Section 3 below, no application for a comprehensive plan amendment, amendments to the Official Zoning Atlas, or development order (as defined in Section 163.3164, Florida Statute) concerning the development of a commercial composting facility on property in unincorporated St. Lucie County shall be processed, granted, or otherwise approved. All such applications shall be held in abeyance by the County, until the end of the term of this Ordinance, as described in Section 3, below.

B. For the purposes of this Ordinance, a “commercial composting facility” shall mean a facility that uses composting techniques or technology to process solid waste, biosolids (i.e., domestic wastewater residuals), or other organic matter as part of a commercial business or venture. Processing includes but is not limited to physical turning, windrowing, aeration, and other means of mechanically handling solid waste, biosolids, or other organic matter to produce compost.

C. Notwithstanding anything else contained herein this ordinance shall not apply to:

1. A public purpose project, if the applicant is a governmental entity and the applicant demonstrates to the County’s satisfaction that the public interest would be significantly and adversely affected if the application for the proposed project is delayed by the requirements of this Ordinance; or

2. A development that is protected from a change in county ordinances, to the extent provided by Section 163.3233, Florida Statutes, for those statutory development agreements that already have been entered into.

Section 3. TERM OF THIS ORDINANCE.

The County shall move forward expeditiously with the development, adoption, and implementation of the Regulations concerning commercial composting facilities. This Ordinance shall remain in effect only for so long as is reasonably necessary for the Board to adopt such Regulations and for those Regulations to take effect. Accordingly, the term of this Ordinance shall expire, and this Ordinance shall have no further force or effect, after the date when the Regulations take effect, or three hundred thirty (330) days after the date of the adoption of this Ordinance, whichever occurs first, unless the term of this Ordinance is extended by the Board. The Board may extend the term of this Ordinance for up to an additional thirty (30) days by resolution, if the Board finds that the extension is necessary and in the public interest.

Section 4. WAIVERS.

Notwithstanding the provisions in Section 2 above, an applicant for the development of property within the unincorporated County may apply to the Board for a waiver of

the requirements in Section 2.A, above, so that the applicant's application may be reviewed without delay. In such cases, the Board shall consider the request for a waiver at a public meeting, which shall be held within 45 days after the County receives the applicant's request. At the public meeting, the applicant shall have the burden of demonstrating to the Board's satisfaction that: (a) granting the applicant's request for a waiver will not detrimentally affect the preparation and implementation of the Regulations; (b) the proposed project will be compatible with surrounding land uses; and (c) the proposed project will not adversely affect the public health, safety or welfare. If the applicant carries its burden of proof, the Board may grant a waiver and thus allow the applicant's application to be submitted, reviewed and processed concurrently with the Regulations. However, a development order shall not be issued for such application until the necessary comprehensive plan amendments are in effect and the application is found to be consistent with adopted land development regulations.

Section 5. VESTED RIGHTS.

A. Nothing in this Ordinance shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:

1. A government act of development approval was obtained prior to the effective date of this Ordinance; and
2. The property owner has detrimentally relied, in good faith, on the governmental approval by making a substantial change in position or incurring extensive obligations and expenses; and
3. It would be highly inequitable to deny the property owner the right to complete the development.

B. Any property owner claiming to have vested rights under this Section 5 must file an application with the Board for a vested rights determination within 30 days after the effective date of this Ordinance. The application shall be accompanied by a fee of \$1,500.00 and shall contain a sworn statement as to the facts upon which the vested rights are asserted, together with any documentary evidence supporting the claim. The Board shall hold a public hearing on the application and, based upon the evidence submitted, shall make a determination as to whether or not the property owner has established vested rights. To the extent that a property owner demonstrates vested rights, the prohibitions established in Section 2.A of this Ordinance shall apply.

Section 6. APPEALS.

Any appeal from a final decision by the Board under Section 4 or Section 5 of this Ordinance shall be pursued by filing a Petition for Certiorari in the Circuit Court of the 19th Judicial

Chris Dzadoovsky, Vice Chairman	XXX
Commissioner Tod Mowery	XXX
Commissioner Paula A. Lewis	XXX
Commissioner Frannie Hutchinson	XXX

PASSED AND DULY ADOPTED this _____ day of _____, 2016.

ATTEST:

Deputy Clerk

**BOARD OF COUNTY COMMISSIONERS
ST. LUCIE COUNTY, FLORIDA**

BY: _____
Chairman

**APPROVED AS TO FORM AND
CORRECTNESS:**

BY: _____
County Attorney

