

**CITY OF TALLAHASSEE
CITY COMMISSION AGENDA ITEM**

ACTION REQUESTED ON: April 22, 2009

SUBJECT/TITLE: First and Only Public Hearing on Ordinance No. 09-O-21, Amending the Tallahassee Land Development Code to Modify Requirements for Government Stormwater Retrofit Projects.

TARGET ISSUE: Financial Viability of the Government

STATEMENT OF ISSUE

This item is before the City Commission for introduction of Ordinance No. 09-O-21 (Attachment #1), which proposes amendments to Chapter 5, Environmental Management, in the Tallahassee Land Development Code to waive requirements for certain governmental stormwater retrofit projects. The proposed ordinance is another step by the City to streamline approval of governmental capital projects in order to get projects started quickly in hopes of stimulating the economy in the current economic downturn. The proposed ordinance clarifies how the Land Development Code requirements will be applied to stormwater retrofit projects. The ordinance is before the City Commission for the first and only public hearing. It was introduced on April 7, 2009.

This ordinance is part of the fast tracking program for public sector capital projects approved in concept by the Financial Viability of the Government Target Issue Committee in its February 2, 2009, meeting; and then by the full City Commission on February 11, 2009.

RECOMMENDED ACTION

Approve Option 1: Hold the public hearing and approve Ordinance No. 09-O-21.

FISCAL IMPACT

This ordinance will reduce both the direct cost of implementing stormwater retrofit projects and will additionally reduce indirect costs by removing impediments and hastening implementation of projects that are designed to correct flooding and water quality problems.

James R. English, City Attorney

For Information, please contact: Linda Hudson, Assistant City Attorney, Ext. 8554, or John Buss, Manager, Water Resources Engineering, Ext. 6860.

**SUPPLEMENTAL MATERIAL/ISSUE ANALYSIS
HISTORY/FACTS & ISSUES**

The City's Stormwater Capital Projects Section implements stormwater improvement projects to alleviate flooding and/or improve the quality of stormwater discharges. These projects, which involve the modification of existing stormwater management systems and facilities, and/or the construction of new stormwater management systems and facilities, are commonly referred to as "Stormwater Retrofit Projects". Stormwater Retrofit Projects, by their very nature, present special circumstances with regard to land development regulations. The land development regulations have been crafted more from a perspective of preventing or regulating impacts of new development or redevelopment on natural systems.

One of the peculiarities presented by Stormwater Retrofit Projects is that the purpose of such projects is to improve a deficiency in one or more of the systems the regulations are designed to protect. Frequently,

that system is the stormwater management system, but at times may include wetland systems or even a non-point issue such as general water quality improvement. Additionally, Stormwater Retrofit Projects by their nature often must be implemented in streams, ponds or other areas that the land development regulations would typically encourage one to avoid. Over time, these distinctive circumstances have led to a recognition that certain elements of the land development regulations are counter-productive to the City's overall regulatory goals.

Staff with the City Manager's Office, Growth Management Department, and Stormwater Management Division has been evaluating various remedies for the above-described problem for some time. It was eventually decided that an ordinance amendment was the best solution to address the problem and this was proposed in the February 2, 2009 Target Issue Committee agenda item relating to provisions for fast tracking public sector infrastructure projects. Below is the text from the February 2nd agenda.

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.

Unfortunately the above text was inadvertently omitted from the subsequent February 11th action agenda item that was brought back to the full City Commission to implement the recommendations in the February 2nd item. In the interim period since then staff has drafted the needed ordinance revision. (Attachment 1)

The effect of the proposed amendment is that stormwater projects undertaken for purpose of improving or managing the stormwater system or natural drainage system and which are not for the purpose of facilitating some other non-exempt development, will not be subject to some requirements in Chapter 5, Environmental Management, of the Land Development Code. These projects will still comply with the following provisions:

- Section 5-54. Natural features inventory;
- Section 5-55. Environmental impact analysis;
- Section 5-81. Conservation and preservation area development standards; and
- Section 5-83. Tree protection and removal standards, except that City Stormwater Retrofit Projects shall be exempt from the following subsections of Section 5-83: (f) Reforestation requirements, (j) Tree replanting requirements, and (o) Tree debits and credits in proposed residential subdivisions.

Stormwater Retrofit Projects must also meet the following criteria:

- Not increase the rate of off-site rate discharges;
- Not cause adverse flooding to on-site or off-site property; and
- Not increase pollutant loading.

One distinction from the Local Economic Emergency ordinance approved by the City Commission is that the changes proposed by this proposed ordinance will be effective until repealed; the changes will not end when the Local Economic Emergency ends.

The ordinance (Attachment 1) is before the City Commission for the first and only public hearing; it was introduced on April 7, 2009.

OPTIONS

1. Hold the public hearing and approve Ordinance No. 09-O-21.
2. Hold the public hearing and approve Ordinance No. 09-O-21, as revised by the City Commission.
3. Hold the public hearing and do not approve Ordinance No. 09-O-21. Provide direction to staff