



City of Coconut Creek Florida 2020 State Legislative Agenda

I. *Intergovernmental Relations*

A. Home Rule

BACKGROUND: Home Rule is based on the time-tested premise that the government closest to the people is the authority best positioned to serve the needs of the community. The right of the people to use a grassroots approach to determine public needs, public purpose, and implement programs is an important democratic principle. Home Rule powers are conferred to local government by the Florida Constitution and Florida Statutes. Maintaining the integrity of Home Rule, both administrative and fiscal, allows local governments to develop and implement community-based solutions to community-based issues, which is an essential component of good government. In recent history, numerous state proposals to preempt municipal Home Rule Authority to the state have become a traditional feature each Legislative Session.

POSITION: The City of Coconut Creek **supports** the preservation of Home Rule and **opposes** any legislation that seeks to diminish powers granted to local government.

1. **PREEMPTION LITIGATION / ATTORNEY FEES AND COSTS:** In 2019, the Legislature adopted HB 829 which created Section 57.112 Fla. Stat. providing a mandatory award of attorney fees, costs and damages to the prevailing party in a civil action where the adoption or enforcement of a local government ordinance is alleged to be preempted by the state Constitution or by state law. The amendment provided a safe harbor for a local government if the local government withdraws a proposed ordinance within 30 days of receipt of a written notice that a proposed or adopted ordinance *may* be expressly preempted or, in the case of an adopted ordinance, notices the ordinance for repeal within 30 days of receipt of the notice and repeals the ordinance within 30 days thereafter.

The new legislation severely interferes with local government home rule power. Normally, a challenge to a local government legislative enactment would stay enforcement/implementation of the legislation thereby protecting the public. This statute goes far beyond preemption by giving anyone the ability to force a local government to withdraw legitimately adopted home rule based, legislation, by threatening a challenge. The local government's safe harbor is valid *only* if they *repeal or withdraw* the legislation. The legislation puts local governments in the position of guilty until proven innocent. This creates a presumption of guilt that is contrary to all legal principals. The challenger is not required to continue the legal challenge. Essentially, the local government is in the position of having to pay to defend or to file a declaratory action in order to validate any legislation which any random citizen chooses to *write a letter* about. The chilling effect of this statute on local governments is essentially a prior restraint on local government speech, threatening a local government who speaks without court approval of their legislation.

POSITION: The City of Coconut Creek **supports** the repeal of Section 57.112, *Fla. Stat.*

B. Unfunded Mandates

BACKGROUND: Frequent State directives mandate local governments to provide services or programs without providing appropriate revenue or funding sources to implement or enforce the required activity. These unfunded mandates can compromise a city's ability to provide essential and discretionary services deemed appropriate by the local community.

POSITION: The City of Coconut Creek **opposes** unfunded mandates from any level of government.

C. Required Public Notice Advertising in Newspapers

BACKGROUND: A vital element of the Sunshine Law is the requirement that boards subject to the law provide "reasonable notice" of all meetings. See S. 286.011(1), F.S. The type of notice that must be given is variable, depending on the facts of the situation and the board involved. In some instances, posting of the notice in an area set aside for that purpose may be sufficient; in others, publication in a local newspaper may be necessary. In each case, an agency must give notice at such time and in such a manner as will enable the media and the general public to attend the meeting.

The City of Coconut Creek is committed to open communication with our residents. In light of customer use data and the increasing limitations on traditional newspaper circulation, we believe the use of our publicly accessible website for public notices, along with other methods as appropriate, would provide for optimal communication with our residents.

POSITION: The City of Coconut Creek **supports** legislation authorizing local governments the option of using their publicly accessible websites for legally required public notices and advertisements in lieu of newspapers.

D. State of Florida Gaming Compact with the Seminole Nation

BACKGROUND: The 2015 federal lawsuit between the State of Florida and the Seminole Tribe resulted in a settlement agreement in July 2017 which provides that the Tribe is allowed to continue to conduct banked games for the remainder of the compact's 20-year term and the Tribe will continue to pay the state its 3% revenue share. Due to the state's inaction to shut down banked card games at pari-mutuel facilities, which a Federal court ruled violated the Class III Compact, the Seminole Tribe ceased payments to the state. Last year, an attempt to reach a new agreement between the State and Seminole Tribe failed. The failure to renew this agreement is estimated to cost the State upwards of \$30 million in revenue. While the Seminole Tribe has publicly stated they will resume payment once the state shuts down banked card games at pari-mutuel facilities, the state will not be able to recoup lost revenue from payments that were not made.

POSITION: The City of Coconut Creek **supports** a new Class III Compact between the Seminole Tribe and the State of Florida that will ensure the Tribe will resume revenue payments to the State, a percentage of which is distributed to affected local governments.

II. Urban Administration

A. Landfill Regulations

BACKGROUND: The City of Coconut Creek is committed to reducing the impact of the Monarch Hill Landfill, formerly known as the Central Disposal Sanitary Landfill, on our community. This landfill, which directly abuts the City, opened in 1965 in what was then a remote section of Broward County. It has grown over the years, is frequented by vultures, pigeons and seagulls, and the odors that have been emitted from the landfill have had a very negative effect on our residents' quality of life. The City is concerned not only with protecting the quality of life of our residents, but also with protecting the water and air quality in the surrounding areas. Numerous legislative attempts have been made

to lessen environmental regulations related to the landfill. The landfill is more than 225 feet high, and is a blight upon our urban community.

POSITION: The City of Coconut Creek **opposes** any legislation lessening environmental and testing regulations on landfills. The City **supports** additional landfill environmental regulations benefitting air and water quality. The City **supports** additional environmental regulations on urban landfills.

B. Recycling Regulations

BACKGROUND: During the 2017 and 2018 Legislative Session, several solid waste companies proposed amendments to Florida law that would create a limit on the amount of “contamination” that could be present in the recyclable materials collected from Florida’s residents. If the limit was exceeded, the collection companies would be able to reject the recyclable materials and send them to a disposal facility. Legislation would have set the limit at 10% contamination in 2017 and an attempt in 2018 would have increased this limit to 15% and would have prohibited cities and counties from requiring the recycling of materials for which there is no viable market. The Florida League of Cities negotiated compromise language that ultimately passed in a package of legislation in 2018 and 2019 later vetoed by Governor Scott and Governor DeSantis, respectively, for unrelated reasons. A 2020 proposal has now been filed with this compromise language, which would require contamination be addressed in local contracts but allows local authority to negotiate a definition of contamination without considering market limitations.

POSITION: The City of Coconut Creek strongly **opposes** any legislation that would lessen recycling efforts or recycling requirements in the State of Florida.

C. FDOT and the Florida Turnpike Enterprise

BACKGROUND: The Florida Department of Transportation completed a PD&E study in 2006 of a proposed expansion of the Florida Turnpike in Coconut Creek from six (6) lanes to eight (8) lanes. However, the project was suspended in 2007 during the design phase due to the economic recession and utility concerns. In 2017, the project was reactivated with a significantly larger scope, a shift to the west, widening to ten (10) lanes instead of eight (8), and increasing electronic tolling, all of which would have tremendously negative impacts on elderly and minority populations in the City of Coconut Creek. Florida’s Turnpike is currently discussing toll lanes as part of this project, which further exacerbates the impacts of the expansion on Coconut Creek residents, while not allowing any access to the toll lanes.

POSITION: The City of Coconut Creek **supports** legislation that limits the ability of FDOT to build projects prior to them being warranted. The City strongly **opposes** the idea of adding toll lanes on facilities that are already operating using a toll system.

D. Recovery Residences

BACKGROUND: Recovery Residences/ Sober Homes may be defined as a residential dwelling unit or other form of group housing that is offered or advertised through any means, including oral, written, electronic or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free and drug-free living environment.

As a result of the passage of HB 21 (2015) and HB 807 (2017), sober homes/ recovery residences are required to show proof of compliance with life-safety standards, which include obtaining an annual fire-safety inspection. Unfortunately, the State Fire Marshal has taken the position that sober homes/recovery residences are to be treated as Residential Board and Care Facilities under the Florida Fire Prevention Code and under the National Fire Protection Association Standards. This position is inconsistent with the Fair Housing Act and case law, which provides that sober

homes/recovery residences are to be treated as single-family residences in relation to fire-safety standards.

POSITION: The City of Coconut Creek **supports** legislation that makes the state fire-safety standards applicable to recovery residences consistent with federal fair housing laws.

E. Gas Pump Skimmers

BACKGROUND: Gas Pump Skimmers are illegal credit card readers designed to steal credit card information at payment terminals. In recent years, there has been a proliferation in skimmers placed inconspicuously at gas station pumps. Currently, the Department of Agriculture and Consumer Services is responsible for inspecting gas pumps to protect consumers. However, the Department does not have the capacity to keep up with the volume of skimmers and ability to take swift action as would a local law enforcement agency.

POSITION: The City of Coconut Creek **supports** giving local law enforcement agencies authority to inspect gas station pumps and remove illegal card skimmers.

III. Finances and Taxation

A. Municipal Revenues

BACKGROUND: State leaders have historically pursued “broad-base” tax relief as a Legislative Priority, including a desire to decrease revenues collected from the Communications Services Tax, Local Business Tax, Ad Valorem taxes and Commercial Lease Sales Tax as well as restrict the authority of local governments to levy taxes. As costs of providing local government services to residents continue to increase, revenues collected from these sources are critical to maintain.

POSITION: The City of Coconut Creek **opposes** any reduction to local government allocations or tax base reduction due to ad valorem exemptions which would result in a loss of municipal revenue that would directly affect the level of services the City is able to provide its residents and the City’s ability to properly plan for the future. The City especially **opposes** reductions to or restrictions imposed upon the following important revenue sources.

1. Communications Services Tax Protection

BACKGROUND: In 2001, the Florida Legislature created the Communication Services Simplification Act, which restructured taxes on telecommunications, cable, direct-to-home satellite and related services. The law replaced and consolidated seven different state and local taxes and fees into a single tax that is composed of two parts, the state Communications Services Tax and the local Communications Services Tax (CST). The local Communications Services Tax is one of the main sources of general revenue for municipalities, generating approximately \$700 million every year for cities and counties. The City of Coconut Creek receives approximately \$2.0 million each year in revenue from the CST. These revenues may be used for any public purpose, including pledging the revenues to secure bonds. Unfortunately, the CST is an impaired revenue source that is declining due to changes in technology, consumer behavior, complications with collections, and a recent court ruling that held the law was discriminatory by treating certain telecommunications differently. The Florida League of Cities adopted a priority for the 2018 Legislative Session that would encourage the Legislature to address the issues associated with the tax without harming local government revenues. This policy priority as well as recommendations from working groups dedicated to improving CST were never pursued by the Legislature. Instead, the Legislature has passed multiple policy packages decreasing local government authority over access to its right of ways and requiring multiple local ordinances establishing and amending an expedited permitting process for certain telecommunications providers. HB 701, which would significantly reduce revenues in some municipalities by requiring local governments levy uniform rates much lower than the current threshold, has been proposed for the 2020 Legislative Session.

POSITION: The City of Coconut Creek **supports** the Florida League of Cities' priority of reforming the Communications Services Tax in a way that is revenue neutral in order to improve reliability, stability, and equality without harming local revenues. The City **opposes** legislation that would harm the amount or flexibility of local government revenues generated by the CST.

2. Local Business Tax Protection

BACKGROUND: Currently, a municipality may impose a local business tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction. The amount of the tax, as well as the occupations and businesses on which the tax is imposed, is determined by the local government. Local business tax revenues collected by local governments are used to assist in funding services critical to businesses, such as zoning, permitting, code enforcement, and police services. Local governments also may use business tax revenues to help fund economic development programs, presenting a direct benefit to businesses through the marketing of local areas. Many municipalities use the business tax as general revenue funds and have pledged these revenues to secure debt. Collections for municipal local business tax revenues are approximately \$145 million annually. The City of Coconut Creek receives approximately \$350,000 each year in revenue from the Local Business Tax.

POSITION: The City of Coconut Creek **opposes** legislation that restricts, reduces or eliminates municipal revenues generated under the Local Business Tax. The City also **supports** legislation that would simplify the review of business tax from an equity perspective.

3. Impact Fees Protection

BACKGROUND: Impact fees and transportation concurrency are mechanisms used by local governments to ensure that new developments pay for the infrastructure needs they generate. An impact fee is based on the proportionate share of the cost of the public facilities needed to serve new development. Florida law requires that calculation of an impact fee be based on the most recent and localized data. In addition, a city imposing an impact fee must provide for an accounting and reporting of impact fee collections and expenditures. Transportation concurrency is a state law that requires each local government in Florida to adopt a comprehensive plan and implement regulations that require adequate basic services and facilities be provided at the same time as, or concurrent with, any new development.

In recent years, bills have been filed, some of which have passed, to limit or restrict a local government's ability to impose impact fees and transportation concurrency, or to make it easier to prevail in a legal challenge to an impact fee.

POSITION: The City of Coconut Creek **opposes** legislation that restricts a municipality's Home Rule authority to set impact fees or transportation concurrency as well as restrictions on the timing of fee collection.

- a. **IMPACT FEES:** HB 7103 (and HB 207) regulated impact fees. Among other revisions, the bill amended Section 163.31801(5) to require that holders of impact fee credits must be given the full benefit of the intensity or density prepaid by the credit balance as of the date the impact fee was first established. Property owners who acquire impact fee credits and hold them until a much later date when costs have risen will then pay only a portion of the actual impacts of their development.

POSITION: The City supports the elimination of this requirement.

B. Allowing Price in the Consultants Competitive Negotiations Act

BACKGROUND: Current law prohibits local government from requesting price proposals before selecting a provider for certain services, including architectural, engineering, landscape architecture, mapping, and surveying services, which has resulted in higher prices.

POSITION: The City of Coconut Creek **supports** legislation that would permit price to be considered in the selection of these services.

C. Uniform Chart of Accounts

BACKGROUND: Section 215.89, Florida Statutes required the Chief Financial Officer (CFO) to present recommendations on Uniform Chart Of Accounts (UCOA) for reporting of financial information of state agencies, local governments, educational entities, and entities of higher education to the Legislature. The proposed UCOA, presented to the Legislature last year, is costly to local governments, and ultimately the taxpayers, and would result in the delivery of inaccurate, confusing and duplicative information.

POSITION: The City of Coconut Creek **opposes** implementation of the currently proposed UCOA. The City of Coconut Creek **supports** alternative legislation that would accomplish the Legislature's goal of increasing transparency in reporting without imposing a significant financial burden on local governments.

D. SHIP Funding

BACKGROUND: Over the past decade, Florida's housing market was one of the hardest hit in the country, and Florida's cities were at ground zero. Cities not only had to face a record number of foreclosures, but they also encountered a decline in funding for affordable housing programs.

In 1992, the Sadowski Act created a dedicated funding source for affordable housing programs. An increase in the documentary stamp tax paid on all real estate transactions funds the state and local housing trust funds. From those funds, 70 percent is directed to all 67 counties, and Florida's so-called "entitlement cities," to fund the State Housing Initiative Partnership (SHIP) program. SHIP funds can be used for rehabilitation/renovation of existing vacant homes to transform neighborhoods into vibrant communities. In addition, SHIP funds can be used for down payment and closing cost assistance and may be used to rehabilitate existing low-income apartments or construct new units for very low-income families.

The Florida Legislature has routinely used revenue earmarked for the SHIP program to fund other areas of the budget. Additionally, in 2014 Florida adopted an amendment to its Constitution which requires that 33% of documentary stamp tax revenue go towards the Land Acquisition Trust Fund. As the Sadowski Housing Trust Fund utilizes the same revenue source, the amendment may have a significant impact on affordable housing programs. It is critical that the Legislature calculates its distribution of documentary stamp tax revenue in a way that allocates the percentage of funds going towards affordable housing from the total revenue allocation rather than the remainder of revenue after funding of the Land Acquisition Trust Fund. If projected housing funds are fully invested into Florida's local government housing programs, it is estimated these funds can create 26,400 jobs and have a \$2.7 billion in positive economic development impacts for Florida's cities.

POSITION: The City of Coconut Creek **supports** full funding of the SHIP (State Housing Initiatives Partnership) program, as recommended by Governor DeSantis in his proposed budget. The City also **supports** the distribution of documentary stamp tax revenue in a way in which maximizes funding for SHIP and the Sadowski Housing Trust Fund.

E. Economic Development

BACKGROUND: Over the past two years, the Florida Legislature has focused on economic development as a way to restart Florida's economic engine and create more jobs. As part of this effort, the Florida Department of Economic Opportunity was created to coordinate economic development efforts to ensure Florida has a thriving climate for businesses that seek to start, relocate or expand in Florida.

POSITION: The City of Coconut Creek **supports** legislation that dedicates to small businesses state economic development resources emphasizing access to capital and public infrastructure. Additionally, the City **supports** maintaining or expanding current local economic tools.

IV. Sustainability

A. Water Quality

BACKGROUND: The City of Coconut Creek recognizes that diminished water quality and quantity affect existing business, future economic development, local and state government budgets, and the public health and safety. Cities must retain the necessary tools to meet their obligations and responsibilities to comply with water quality standards and water supply planning, development and source protection. These tools include the ability to cooperatively fund expanded wastewater, stormwater, potable water and surface water infrastructure; and statutory clarification of municipal authority to establish stormwater utilities and charge assessments and fees to the users of such systems, including state agencies and school boards.

The future of our state's economic, residential, and environmental welfare depends on an increased investment in Florida's water infrastructure. Municipalities are faced with aging stormwater and wastewater treatment facilities that are in desperate need of maintenance and repair. Assistance is also needed to increase public and private stormwater erosion funding and to ensure consistency in statewide erosion control permitting.

POSITION: The City of Coconut Creek **supports** legislation which recognizes that diminished water quality and quantity affect existing business, future economic development, local and state government budgets, and public health and safety. The City **supports** legislation that establishes reasonable environmental, technical and scientific criteria for the protection and recovery of water resources and also assists municipalities' economic development efforts. (FLC 2019)

B. Water Quantity

BACKGROUND: The C51 reservoir is a long term project that simultaneously addresses so many of the interrelated water resources issues facing the region. Broward County, the District, Palm Beach County, municipalities, drainage districts, and other stakeholders are all involved in this project. This multi-jurisdictional, multi-purpose project was seeking backing in funding and commitment in 2018. In 2018, as part of SB 10, the South Florida Water Management District (SFWMD) were authorized to begin exploring the possibility of forming a public private partnership with the owners of the reservoir. In 2019, legislation passed by Representative Jacobs and Senator Book further advanced the C-51 reservoir.

POSITION: The City of Coconut Creek **supports** funding of alternative water supply projects including the C-51 Reservoir to assure adequate future water supply for urban areas in South Florida.

C. Hydraulic Fracturing (“Fracking”)

BACKGROUND: Fracking uses hydraulic fracturing technology to inject water, sand and chemicals underground to create fractures in rock formations. Oil and gas are released through the fissures and are captured by wells built at the sites. There are several regions in Florida where fracking can occur, including southwest Florida, and rising oil prices could make it more economically feasible for companies to pursue small or uncertain deposits with more intensive techniques.

There is a concern that the chemical makeup of the fluid that is pumped into the ground could contaminate groundwater as well as release harmful pollutants such as methane into the air. In the past, the Legislature has attempted various measures to require disclosure of the chemicals utilized in fracking. This legislation includes "The Fracturing Chemical Usage Disclosure Act," which would require the Florida Department of Environmental Protection to establish and maintain an online registry for all of the wells in the state where fracking treatments are performed; however, a statewide policy to ban fracking will truly ensure both environmental sustainability and the health and safety of our residents.

POSITION: The City of Coconut Creek **opposes** any State Legislative or Administrative action that would permit fracking in Florida, and **opposes** State preemption of local regulations on fracking.

D. Oil Exploration and Everglades Protection

BACKGROUND: In June of 2015, a Miami-based corporation which owns land within a critical section of the Florida Everglades and directly within the area of the Biscayne Aquifer applied for, and was initially approved for, a permit to perform exploratory oil drilling in late 2017. The residents of the City of Coconut Creek depend upon the Biscayne Aquifer as a source of drinking water, which this project could have jeopardized. The drilling project could also have harmed Everglades Restoration efforts that benefit not only the environment for the residents of the City of Coconut Creek, but also the world in protecting and restoring one of the most unique ecosystems in existence. The Florida Department of Environmental Protection (FDEP) denied this permit; however, the decision was overturned on appeal.

POSITION: The City of Coconut Creek **supports** legislation which would ban or tighten restrictions on any oil drilling within the geographical region that constitutes the Florida Everglades. The City of Coconut Creek **opposes** any legislation that would ease zoning restrictions or permit requirements imposed upon oil drilling, particularly within the Florida Everglades.

V. Growth Management and Transportation

A. Public Right of Way and Utility Easements Management

BACKGROUND: The reliability and continuous availability of communications services such as telecommunications, telephone, cable television, broadband, internet, and other communications services will be enhanced by locating the lines, wires, and other facilities that are used to provide those services in underground conduit or on the strongest available overhead poles *in a timely manner*. This includes poles that are installed by electric and/or telecommunication utilities pursuant to applicable rules of the Florida Public Service Commission or pursuant to a utility's own initiatives to strengthen the utility's facilities against potential damage from hurricanes, tropical storms, severe thunderstorms, and other severe weather events.

In many cases, utility providers do not transfer their aerial lines to the new “hardened poles” or underground conduits in a timely fashion, leaving old, unsightly and unsafe wooden stub poles standing for months and sometimes years. The City of Coconut Creek has created a proposed bill to enforce an 18-month limitation on the timeline for the transfer of phone, TV and other

telecommunication (providers') aerial lines from old wooden poles that have been scheduled for removal to new "hardened poles" or underground conduits. If the timeline is not met then governmental entities including cities will have the right to deny permits to the non-compliant providers, which can affect their operation.

POSITION: The City of Coconut Creek **supports** legislation that would require providers of telecommunications, telephone, telegraph, cable television, broadband, internet, and other communications services to *timely* transfer their facilities onto strengthened utility poles or underground conduits whenever such facilities are available and to timely remove older poles and stub poles. The City of Coconut Creek also **supports** legislation that would increase the resiliency of utilities in cases of natural disasters, such as undergrounding and hardening.

B. Transportation Funding

BACKGROUND: Transportation and infrastructure funding are the most critical issues facing cities and counties currently. Increased funding for programs is needed.

POSITION: The City of Coconut Creek **supports** investment in innovative transportation projects. The City of Coconut Creek **supports** legislation that provides increased support to municipalities for transportation choices and allows flexibility in the use of those funds.

C. Multimodal Opportunities

BACKGROUND: Florida Statute provides limits on the use of limited access roadway facilities. Specifically, State Uniform Traffic Control, Chapter 316, Florida Statutes, regulates limited access facilities including Florida's Turnpike and the Sawgrass Expressway. This statute requires the department of transportation to conduct a two-year pilot program, in three separate urban areas, for multimodal uses such as bicycle paths to be included in the rights of way of these facilities. (The limited access pilot program had two projects in Miami-Dade County, one of which was the Julia Tuttle Causeway, and one was in Brevard County.)

This statute should be expanded to provide multimodal opportunities in more than three (3) separate urban areas, as this limits the opportunities for expansion of multimodal improvements statewide.

POSITION: The City of Coconut Creek **supports** an amendment to Chapter 316, State Uniform Traffic Control, Florida Statutes to expand multimodal opportunities within these rights of way.

D. Building and Development

1. **OPEN BUILDING PERMITS AFTER TRANSFER OF PROPERTY:** HB 447 (2019) created a new Section 553.79(16)(a) Fla. Stat. which prohibits a local government from denying a building permit; issuing a notice of violation or fine, or taking any action which would penalize, sanction, or assess fees against an arms-length purchaser of a property for value solely because a building permit applied for by a previous owner of the property was not closed. While the legislation provides that the local enforcement agency maintains all rights and remedies against *the property owner and contractor listed on the permit*, the strict prohibition makes it impossible to remedy actual conditions on the property as the result of incomplete or deficient work under the prior owner's permit. Further the amendment encourages 'as is' sales allowing a property owner to dump a property leaving a new property owner assuming faulty, dangerous or often only partially completed work and the local government is significantly hampered in its ability to pick up the pieces with the new property owner when there are no enforcement penalties still available. The biggest losers in this situation are the new property owner who may have faulty and incomplete work and the community littered

with properties of unsafe conditions. The big winner might be insurance companies who can disclaim coverage based on incomplete work or permit failures.

POSITION: The City of Coconut Creek **supports** legislation that:

- Clearly provides a mechanism for continuation of inspections and inspection and completion of work started under permits from previous owners which are not “substantially complete” and expired with penalties/enforcement available for new homeowner’s actions *from that point forward*, including failing to complete necessary work (like electrical/plumbing) or failing to close a permit under which the new homeowner has done work.
 - Provides a mechanism for an open permit to be transferred, without fees, to the new property owner and allows work, inspections and closeout to proceed under the prior permit and code applicable to the prior permit, charging fees to the new property owner only for revisions to the prior plans. This may also require a legislative mechanism to require that plans for a property/project to stay with that property/project until all permits are closed, regardless of a transfer of contractor or property owner.
2. **PRIVATE PLANS REVIEW AND INSPECTIONS:** Section 553.791 Fla. Stat. provides for alternative plans review and inspection – specifically for plans review and inspections by private inspectors directly hired by the property owner or developer. This creates a conflict of interest jeopardizing future occupants of the property and often, the general public. Private reviewers and inspectors, not subject to any public oversight, and in a direct contractual, financial relationship with the owner/developer are subject to undue pressure to approve plans and workmanship. It is essentially asking the exam taker to grade their own exam or worse, to grade the exam of their boss who is waiving a hundred dollar bill over their head. To compound the situation, changes in 2019 limit the ability to audit private reviewer/inspectors to four audits for any private provider per year, regardless of the number of projects or permits that provider is working on. Further local governments are not allowed to review or re-inspect plans or work reviewed or inspected by a private provider, effectively eliminating all safety nets to protect the public from substandard work. The City has found situations of 1) trusses installed upside down; 2) use of materials prohibited by the County; and 3) unsupported structural bearing points - approved by private reviewers and inspectors. The statute eliminates any way to even discover these situations, and further, does not provide any mechanism to stop the private inspection process. The language does provide for local governments to step in under certain dangerous conditions, but the language has eliminated the mechanisms that would allow the local government to even discover the dangerous conditions. While the local government is absolved of liability within the statute, the local government has a responsibility to protect the interests of the public as a whole. Most of the properties that will take advantage of this provision are larger scale projects that will be open to the public or transfer unit ownerships to unknowing third parties who should have the benefit of unbiased, neutral safety reviews and inspections from parties (local building inspectors and officials) with no incentive to favor financial benefit over safety and true code compliance.

POSITION: The City **supports** legislation that eliminates or reduces the use of private plan reviewers and inspectors. In the event private reviews continue the City **supports** increased participation for local government to provide safety and oversight opportunities including the ability to review and reinspect privately reviewed and approved plans and work.

3. **MANDATORY REVIEW SCHEDULE:** HB 7103 amended several areas of the Florida statutes to impose mandatory review timeframes for development approvals and on responses to private permit reviews. These schedules are unreasonably short and eliminate opportunities for concurrent reviews which, while they may take longer for individual reviews, because multiple reviews, by multiple organizations (governmental agencies; management districts; state and federal agencies) are permitted to occur at the same time, the overall permitting process is faster. Further the limitation on 3 reviews by local government incentivizes applicants to ignore requests for changes or additional information because on

the 3rd time they get to move ahead regardless. The end result will be more applications being denied by staff or moving forward reviewing bodies with stringent opposition from staff increasing the likelihood of denial and having to start over and increasing both dollar and time cost of obtaining approval.

POSITION: The City **supports** legislation that repeals mandated local government development approval and building permit/private provider review application schedules.

4. **PRIVATE PROPERTY RIGHTS/TREE TRIMMING REQUIREMENTS:** House Bill 1159 created Section 163.045 Fla. Stat. imposing restrictions on the enforcement of local government tree ordinances. A residential property owner is not required to obtain a tree trimming or removal permit if the owner obtains documentation from a certified arborist or a licensed landscape architect that the tree presents a danger to persons or property. Under those circumstances, a local government cannot require that the tree be replaced. The statute also allows a property owner adjacent to an electric utility right-of-way to request the electric utility perform tree trimming in the right-of-way without local government approval. The statute is vague and usurps home rule authority that is best implemented and regulated at the local level. Further, landscape requirements have traditionally been a local regulatory issue as each jurisdiction determines for itself the physical characteristics of its environment.

POSITION: The City **supports** the repeal of Section 163.045, *Fla. Stat.* Alternatively, the City **supports** revisions to this law that provide definitions of ambiguous terms including a definition of “residential” to address single and two family uses and a definition of danger that provides for *imminent physical threat* as opposed to hypothetical dangers (any tree within 20 feet of a sidewalk could *some day* cause damage to the sidewalk, which should not qualify it as a danger).

5. **PRIVATE PROPERTY RIGHTS/ “BERT J. HARRIS” ACT:** The Bert J. Harris Act provides a civil cause of action for private property owners whose current use or vested right in a specific use of real property is “inordinately burdened” by the actions of a governmental entity. The Harris Act authorizes relief, including compensation, to the private property owner for the actual loss to the fair market value of the real property. The burden of proof is on the property owner to show that a governmental entity has inordinately burdened his or her real property. The Harris Act defines an inordinate burden as one in which an action of one or more governmental entities has restricted or limited the use of property such that the owner is unable to attain reasonable, investment-backed expectations for the existing use or a vested right in the existing use of the property as a whole, or if the owner is left with uses are unreasonable such that the owner would permanently bear a disproportionate share of a burden imposed for the public good, which should be borne by the public at large.

When faced with a Harris Act claim, cities and counties often choose to settle the claim by offering the aggrieved property owner a variance to the rule or regulation that is inordinately burdening the property. Settling claims in this method saves taxpayers the expense of paying monetary damages and is encouraged in the Harris Act. Legislation that significantly amends the Bert J. Harris Act was filed in the 2019 Session and has again been filed for the 2020 Legislative Session that could have a serious impact on local government operations and expose cities and counties to substantial liability. The legislation requires that when a government entity reaches a settlement on a Harris Act claim regarding a residential property, if the settlement creates a variance, such variance is to be automatically applied by the government entity to all “similarly situated properties” that are subject to the same government rules or regulations. The bills do not define what a “similarly situated property” is. Therefore, in its broadest sense, the term may include properties outside of the same zoning district, and has no regard for the size or density of the residential property, historical designations or any other zoning overlays differing residential properties may have.

The legislation fails to consider that there are legal due process procedures in place to protect the property rights of property owners who may be harmed by the issuance of a variance. Variances require applications, quasi-judicial hearings and public notices, including posted public notice and mailed notices to property owners within a certain radius of the property for which a variance is being sought. A local government cannot provide Bert Harris relief to a property owner by abridging the rights of other potentially impacted property owners.

POSITION: The City **opposes** substantive changes to the Bert J. Harris Property Rights Protection Act that shift inordinate financial burdens onto local governments.

6. **VEGETABLE GARDENS:** Senate Bill 82 created Section 604.71 Fla. Stat. which preempts local regulation of vegetable gardens on residential property. The statute is vague and usurps home rule landscape requirements have traditionally been a local regulatory issue as each jurisdiction determines for itself the physical characteristics of its environment.

POSITION: The City **supports** the repeal of this law.

VI. Public Safety

A. Firearms

BACKGROUND: In 2011, the Florida Legislature passed an amendment that eliminated a local government's ability to regulate firearms, including any local regulations on the ability to carry a handgun or concealed weapon into a public building or park. (Section 790.33 of the Florida Statutes) The City believes that it should have the right to regulate firearms locally to protect its citizens and should have the right to prohibit any person to openly carry a handgun in public or carry a concealed weapon or firearm into any government building or park. In addition, due to the senseless killings that have resulted because of the legalization of assault weapons, the City supports the ban of these weapons and legislation that requires the purchase and ownership of all guns to be registered and licensed.

POSITION: The City **supports** legislation that addresses the following:

- Repeals the 2011 amendment that eliminated local governments' ability to regulate firearms;
- Legislation that requires the purchase and ownership of a gun be registered and licensed;
- Legislation that would ban assault weapons, automatic weapons, and large external magazine weapons and ammunition;
- Legislation that would prohibit any person, other than law enforcement officers, to carry a weapon or firearm into any government facility or park.

B. Text Messaging / Cell Phone Use While Driving

BACKGROUND: Distracted driving, including the use of cell phones, is a major contributor to automobile accidents. Between 4,000 and 8,000 accidents related to distracted driving occur daily in the U.S. In a year, they contribute to as many as one-half of the six million U.S. accidents reported annually. Recently passed legislation prohibits texting while driving as a primary offense and prohibits the use of handheld devices in school zones and work zones. New legislation has been proposed for the 2020 Legislative Session that would expand the prohibition on use of handheld devices while operating a vehicle.

POSITION: The City of Coconut Creek **supports** strengthening state law restricting the use of non-hands-free wireless communications devices while operating a motor vehicle.

C. Smoking in Municipal Playground Areas and Ballfields

BACKGROUND: On July 1, 2003, smoking was banned statewide in nearly all enclosed workplaces in Florida, with the exception of private residences, retail tobacco shops, designated smoking rooms in hotels/motels, stand-alone bars with no more than 10% of revenue from food sales, rooms used for quit-smoking programs and medical research, and designated smoking areas in customs transit areas under the authority of the U.S. Department of Homeland Security. Local governments are preempted from regulating smoking.

POSITION: The City of Coconut Creek **supports** revising Section 386.209, F.S, authorizing a municipality or county to restrict smoking in playground areas and ballfields that are owned by the municipality or county if the area where smoking is restricted is clearly delineated by “No Smoking” signs.

D. Electronic Smoking Devices

BACKGROUND: The use of electronic-cigarettes and other vapor producing devices have risen in popularity and the City Commission expressed a desire to address this issue in July of 2014, when the Commission approved by consensus a zoning in progress related to the location of businesses that cater to the retail sale including onsite use of such products. There was also direction given at that time to have staff come back with an ordinance to address the act of smoking electronic cigarettes in places where smoking traditional cigarettes is prohibited. This ordinance, passed on February 12, 2015, furthered the City’s commitment to protecting the health, safety, and welfare of its residents by prohibiting the use of electronic smoking devices in traditionally smoke-free locations such as daycare centers, schools, libraries, indoor enclosed workplaces, and city owned or controlled buildings, structures, outdoor seating areas, and / or public transit stations / stops.

POSITION: The City of Coconut Creek **supports** legislation permitting local regulation regarding the smoking of electronic smoking devices.

E. Controlled Substances

BACKGROUND: Synthetic drug products, which mimic the pharmacological effects of amphetamines, cocaine, ecstasy, and other illegal drugs but can be easily purchased in gas stations, convenience stores, etc., have been a national problem for the past several years. The Florida Legislature must routinely pass legislation to add new synthetic drug compounds to Schedule 1 of Florida’s controlled substance schedule, allowing law enforcement officials and prosecutors to arrest and prosecute for the possession and sale of those particular substances.

POSITION: The City of Coconut Creek **supports** legislation adding newly configured chemical compounds intended to be sold as synthetic drugs to the Schedule 1 list of the Florida controlled substance schedule.

F. Firefighter Benefits

BACKGROUND: Senate Bill 426 provided various benefits to qualifying full-time employed (and post-employed) firefighters who receive a diagnosis of certain specified cancers. The bill also provided new *employer-funded* benefits as an alternative to workers’ compensation benefits, and enhances existing disability and death benefits for firefighters. Benefits to qualified firefighters which must be paid directly by local governments instead of insurers include, but are not limited to, cancer treatment, reimbursement for out-of-pocket deductibles, and one-time cash payouts of \$25,000 upon initial cancer diagnosis. This is an unfunded mandate which has already raised rates for firefighters AND police as a class.

POSITION: The City is supportive of appropriate coverage for its employees, however, the legislation is too broad. Therefore, the City **supports** clarification of the statute to provide benefits for those conditions/cancers *directly related to the scope of the employment*.

VII. Education

A. Advance Notification to Municipalities of Charter School Sitings

BACKGROUND: State law does not provide local governments with advanced notification of charter school sitings and does not clarify charter schools are subject to developmental regulations. Charter school language has been proposed in recent years that would further reduce land use and zoning requirements of charter school sites, allowing potentially hazardous conditions caused by traffic or other planning issues that can be prevented by local decision makers.

POSITION: The City of Coconut Creek **supports** revisions to Section 1002.33, F.S., to require that charter schools identify the proposed location of their facility in their charter school application, and present evidence from the municipality or county with land use and zoning jurisdiction that the proposed facility meets all applicable local comprehensive plans and land development regulations. The City also **supports** clarification that charter schools are subject to local land development regulations and are not covered by the partial exemption from such regulation for school board operated public schools in Section 1013.33(10)-(15), F.S.

B. Graduation Rates

POSITION: The City of Coconut Creek **supports** state funding for initiatives and other innovative programs to increase graduation rates.

VIII. Legislative Watch List

- A.** Public Records Legislation (including legislation affecting personnel records)
- B.** Building Codes
- C.** Fiscal Transparency and Responsibility / Ethics Reform
- D.** Workers Compensation (Chapter 440)
- E.** Heart/Lung Bill (112.18)
- F.** Florida Retirement System
- G.** Municipal Elections
- H.** Local Authority on Wireless Communications
- I.** Complete Streets
- J.** Post Hurricane Relief Efforts
- K.** Opioids including Fentanyl
- L.** Medical Marijuana
- M.** Recommendations of the Marjory Stoneman Douglas High School Commission
- N.** SRO Funding
- O.** Emotional Support Animals