



City of Coconut Creek Florida 2022 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

BACKGROUND: 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. Local governments are provided a safe harbor if action is taken to withdraw the proposed ordinance within 30 days of receipt of a written notice that a proposed or adopted ordinance *may* be expressly preempted. The law further exempted ordinances consistent with local government comprehensive plans. In 2020, an attempt was made to remove this exemption.

Essentially, the law puts local governments in the position of guilty until proven innocent and creates a chilling effect on local government speech without prior court approval. A local government must pay to defend or to file a declaratory action in order to validate any legislation *that any random citizen chooses to write a letter about*. Without this law, the public is ensured protection via a stay of enforcement when a local government legislative enactment is challenged. By giving anyone the ability to force the withdrawal of legitimately adopted home rule-based legislation by mere threat, this law goes far beyond preemption and is a severe interference on Home Rule.

Legislation has been filed for the 2022 Legislative Session that would open local governments up to further litigation by awarding attorneys fees in challenges to local ordinances that are found by the courts to be "arbitrary or unreasonable."

POSITION: The City of Coconut Creek **supports** the repeal of Section 57.112, *Fla. Stat.* and **opposes** legislation that would remove exemptions negotiated by local governments in 2019.

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. Specifically, legislation has been filed for the 2022 Legislative Session that would create an unfunded mandate on local governments to require them to develop and publish detailed, expansive fiscal impact statements for every newly proposed local ordinance.

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

C. Emergency Management (NEW)

BACKGROUND: Senate Bill 2006 adopts Section 252.38(4) which significantly restricts local government emergency management authority. Subsection (4)(d) allows the governor to invalidate any local emergency order if he or she determines that the local order unnecessarily restricts individual rights or liberties (undefined) and Subsection (4)(e) provides that once an emergency order has expired, a political subdivision may not issue a substantially similar order. These provisions disregard local emergency needs and prevent local governments from addressing emergencies when most needed. The bill also creates Section 381.00316 Fla. Stat. which prohibits governmental entities, educational institutions, and businesses from requiring proof of vaccination and imposes fines of up to \$5,000 per incident for violating the prohibition.

POSITION: The City **supports** the repeal of Sections 252.38(4)(d), 252.38(4)(e), and 381.00316 Fla. Stat. in their entirety.

D. 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. In 2020, the House passed legislation (HB 7) which would have removed the requirement of advertising public notices in newspapers; however, the Senate did not pass a companion bill. In 2021, the Legislature approved changes which require that all newspaper ads be published online by the printer. The bill does allow agencies to provide for web-based notices but provides that the fees charged by the newspaper for the web-based notices can be the same as the print-based notices and, in addition to those costs, requires the local government using web-based notices exclusively, to publish, at significant expense, additional notices. The changes ostensibly provided local governments the opportunity to use web-based notices to comply with legal notice requirements, but made it cost-prohibitive to do so.

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

E. 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.

In 2021, the Compact between the State of Florida and the Seminole Tribe was signed into law. On August 6, 2021, the Secretary of the Interior Bureau of Indian Affairs (BIA) sent a letter to Governor DeSantis providing that to the extent that the Compact was consistent with Indian Gaming Regulatory Act, the Compact was approved. The BIA published the required notice of intent to approve in the Code of Federal Regulations (CFR) on August 9, 2021 for ninety (90) days. Two lawsuits have been filed challenging the terms of the Compact. In one of the lawsuits, a Federal District Court Judge struck the online sports betting component of the Compact. An appeal has been filed, and we will continue to monitor the progress and status of the lawsuits.

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 negative effect on our residents' quality of life. The landfill is more than 225 feet high, and is a blight upon our urban community. 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.

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

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to a disposal facility. In 2017, legislation would have set the limit at 10% contamination; in 2018, legislation 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 would require contamination be addressed in local contracts, but allows local authority to negotiate details with waste companies, including the definition of contamination, without forcing consideration of market limitations. This language ultimately passed and was signed by the Governor as HB 73 in 2020.

At the same time, the state of recycling in Broward County over the past few years has deteriorated to its worst-case scenario. Following the dissolution of the Broward County Resource Recovery Board roughly seven years ago, Broward County was left without a regional entity controlling the management of waste produced in the County, creating an "every city for themselves" situation. Combine this with the monopolization of recycling processing in Broward County by Waste Management, China's refusal to accept large quantities of U.S. materials due to high contamination levels, high contamination levels at the local level, the doubling of processing costs, the low price of mixed paper in the marketplace, and the lack of market demand for certain materials such as glass and plastics #3 through #7, and you have, for lack of a better description, the perfect storm. The City went from receiving \$40,000 per year from the processing of recyclables to paying roughly \$200,000 per year for the processing of recyclables.

Realizing that a regional system would be a better approach to managing solid waste and achieving economies of scale, in 2019 the municipalities of Broward County formed the Broward County Solid Waste Working Group with the goal of developing and implementing a regional solid waste district to address these issues countywide. The group consists of elected officials from Broward County and its municipalities, along with county and municipal solid waste and legal experts, are working hand in hand to develop an effective and efficient solution for all of Broward County. Currently, the Solid Waste Working Group is considering an Interlocal Agreement (ILA).

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 (FDOT) 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. The project was suspended in 2007 during the design phase due to the economic recession and utility concerns; however, in 2017, the project was reactivated with a significantly larger scope. This revised scope included 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 because the design requires a limited number of access points.

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, by any person or entity, as a residence that provides a peer-supported, alcohol-free and drug-free living environment.

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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. In 2021, SB 804 provided additional revisions to licensure and regulatory provisions. The revisions provided that the conversion of a single-family or two-family dwelling to specified types of recovery residences: 1) will not count as a change of occupancy under the Florida Building Code; and 2) may not be reclassified for purposes of enforcing the Florida Fire Prevention Code.

Additionally, there is a need for clarification regarding provider relationships with recovery residences. HB21 (2015) provided for certification of all recovery residences that receive referrals of residents from Licensed Service Providers (Treatment Providers), but it did not mandate the recording or documentation of those referrals. Finally, various local jurisdictions are attempting to impose distance requirements between recovery residences, and some are doing it in compliance with federal fair housing laws and some are not. A standard zoning template for local governments would be helpful and would provide for consistent and legal application of zoning regulations statewide.

POSITION: The City of Coconut Creek **supports** legislation that makes the State fire-safety standards applicable to all recovery residences (not just single family or two-family dwelling recovery residences) consistent with federal fair housing laws. The City of Coconut Creek **supports** legislation that mandates licensed service providers to list all referrals to recovery residences. The City of Coconut **supports** a proviso providing for the State to commission a study regarding the feasibility of creating statewide standard zoning template for local governments regarding group homes including recovery residences.

E. Towing

BACKGROUND: Many counties and cities coordinate with the towing industry through franchise agreements to provide towing services for the removal of vehicles from public right-of-way. These agreements provide the towing company all of the local government's business in exchange for a negotiated franchise fee. In 2020, HB 133, codified in Section 66.04465 Fla. Stat. (municipal) and Section 125.01047 Fla. Stat. (county), was approved prohibiting local governments from imposing any fees on towing companies. Alternatively, the bill allowed local governments to impose up to a 25% administrative fee *on the vehicle owner* when a vehicle was towed to cover the local government costs of enforcement, including parking enforcement. If towing rates are kept the same, as towing companies and associations are advocating, the implementation of local government administrative fees to cover the costs associated with the towing will directly increase towing costs to vehicle owners and provide a corresponding benefit to the towing companies.

POSITION: The City of Coconut Creek **supports** legislation that repeals the towing fee restrictions.

F. Vacation Rentals

BACKGROUND: In 2011, the Florida Legislature passed House Bill 883, amending Section 509.032(7)(b), Florida Statutes to preempt local government ability to restrict the use of vacation rentals, prohibit vacation rentals, or regulate vacation rentals based solely on their classification, use, or occupancy unless a local government had done so on or before June 1, 2011. In 2014, the Florida Legislature passed Senate Bill 356, amending that same statute to preempt local government authority to prohibit vacation rentals or regulate the duration or frequency of rental of vacation rentals unless they had done so before June 1, 2011. Vacation rentals can create negative impacts within residential neighborhoods due to excessive noise, parking, and traffic problems; excessive use and impact on public services and public works; extreme size; and/or greater than normal occupancy. Their location within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, the quiet enjoyment of its residents, and negatively impact property

values. Legislation has been filed for the 2022 Legislative Session that would further preempt local government ability to regulate vacation rentals.

POSITION: The City of Coconut Creek **opposes** any legislation that further preempts local government's ability to regulate vacation rentals and **supports** any efforts to return vacation rental regulatory authority to local governments. (FLC)

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 (Business Tax Receipts), 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

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 \$1.6 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 (2020) would have significantly reduced revenues in some municipalities by requiring local governments levy uniform rates much lower than the current threshold. While this legislation did not pass, we anticipate a similar effort may emerge in the 2022 Legislative Session as more businesses concentrate on streaming services.

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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. (FLC)

2. Local Business Tax (Business Tax Receipt)

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 \$304,000 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. (FLC) The City **supports** legislation that would simplify the review of business tax from an equity perspective.

3. Impact Fees

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 for a developer 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. HB 7103 (and HB 207)(2020) regulated impact fees. Among other revisions, the bill amended what is now (2021) Section 163.31801(7) 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. HB 337 (2021) amended Section 163.31801 (6)(b), Fla. Stat. and provides that an increase to a current impact fee rate of not more than 25 percent of the current rate must

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be implemented in two equal annual increments beginning with the date on which the increased fee is adopted.

POSITION: The City **supports** the elimination of this requirement or a reduced threshold to allow small increases, such as 10 percent or less, to be implemented in a single increase.

- c. HB 337 (2021) also created Section 163.31801(6)(e), Fla. Stat. to prohibit impact fees from being increased more than once every four (4) years.

POSITION: The City **supports** the elimination of this requirement which fails to recognize significant cost changes which can occur.

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. 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. 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 provide \$2.7 billion in positive economic development impacts for Florida's cities. With Governor DeSantis' support, the Legislature in 2020 allocated the full amount earmarked for the trust fund for the first time in over ten (10) years. However, the impacts of COVID-19 forced the Governor to ultimately veto the funding and substitute Federal dollars. In 2021, the Legislature voted to split documentary stamp tax revenues between affordable housing and grant programs related to flooding mitigation and wastewater. This change guarantees a minimum of \$200 million each year for affordable housing – which is greater than historical amounts appropriated to housing, but significantly less than the amount appropriated in 2020. Continued support of the SHIP program at full funding is of greater necessity than before with evictions resulting from unemployment and housing prices continuing to rise.

POSITION: The City of Coconut Creek **supports** full funding of the SHIP (State Housing Initiatives Partnership) program. 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. (FLC)

D. Economic Development

BACKGROUND: Economic development is a key way to restart Florida's economic engine and create more jobs. 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. Unfortunately, economic development programs and incentives have been reduced in prior years outside of rural counties, including the failure of the Legislature in 2020 to renew the Qualified Target Industry program. The City of Coconut Creek recognizes small businesses as fundamental to a healthy, growing economy and thriving community. Many small businesses have been devastated due to COVID-19 and continued assistance and support to them is needed to ensure diverse job opportunities are available to Florida residents.

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. (FLC)

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. As a result, the City appreciates Governor DeSantis and the Legislature's continued leadership on water quality issues impacting the State.

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. However, 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. The growth of these needs impact even local governments who have responsibly invested in infrastructure and maintenance.

For over a decade, the State has allocated grant funding to municipal water projects through a process that is sometimes based more on political favors than sound planning and responsible criteria. Additionally, water resources within the most recent year have been solely directed towards areas within a Basin Management Action Plan (BMAP). While these areas are important to the State's overall environmental health, this practice neglects the needs of the urban South Florida population. Such areas are not only environmentally significant due to proximity to the Everglades and endangered coral reefs, but also enable state resources to have a greater impact due the area's economic significance and population size.

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.
- Legislation that establishes reasonable environmental, technical and scientific criteria for the protection and recovery of water resources.
- Efforts to ensure sustainable funding by reforming the allocation of grant funding for water projects to be based on long-term planning, need, impact, and local accountability.
- Funding and grant programs to assist and incentivize local governments in areas located outside of a BMAP.

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, 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, and in 2021, the Legislature allocated \$48 million in American Rescue Plan funding towards the project.

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. Sea Level Rise and Flood Mitigation

BACKGROUND: Communities in Florida are increasingly vulnerable to the impacts of sea level rise and flooding resulting from intense rain events. The increase of flooding events threatens public safety, the economy, insurance coverage, and the long-term sustainability of the state. Speaker Chris Sprowls and Senate President Simpson recently co-authored an article rightly pointing out the dire threat of sea level rise and outlined measures the State can pursue to address flood mitigation and better position our state to combat impacts of climate change. In 2021, the legislature approved SB 1954 which provided significant tools and grant opportunities to address flooding and sea level rise; however, these issues will continue to be a major threat to South Florida requiring extensive study and mitigation over the next several decades.

POSITION: The City of Coconut Creek **supports** legislative initiatives to implement cost-effective strategies to address flood mitigation, including statewide planning and investment in infrastructure and that will ensure the resiliency of our communities against the threat of sea level rise.

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*

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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.

SB 1944 (2021) provided several changes to the management obligations of street lighting poles, communications facilities, and electrical poles within public rights-of-way, but many aspects of the new law are faulty. The most concerning problem is that of a non-responsive pole tenant becoming the inherent responsibility of the local government pursuant to the newly created Section 366.97, Fla. Stat., "Redundant poles; transfer of ownership; penalties." Specifically detailed in subsection (3) of that section, the pole owner can transfer title of the pole "by operation of law" to the delinquent non-responsive pole tenant.

Ultimately, the new law allows pole owners to bypass their legal obligations to terminate the tenancy of delinquent or holdover tenants, and safely demolish redundant poles. This leaves local governments (as the rights-of-way owners) with the non-responsive tenant and an abandoned pole. Local governments will now need to fulfill a responsibility that should be on the pole owner, and remove the rights of the holdover tenant in order to demolish the unsafe or derelict structure that poses safety risks to pedestrians and the motoring public. The drafters clearly did not see this eventuality because they failed to include local government actors in the grant of indemnification and release that protects to the pole owner in subsection (2)(c), "...Upon receipt by the pole owner of written notice, the noncompliant attaching entity shall indemnify, defend, and hold harmless the pole owner and its directors, officers, agents, and employees from and against all liability, except to the extent of any finding of negligence or willful misconduct, including attorney fees and litigation costs, arising in connection with the removal, transfer, sale, or disposal of the pole attachments from a redundant pole by the pole owner."

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 **supports** legislation that rescinds the language added by SB 1944. 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. Local Authority on Wireless Communications and Right-of-Way Access (NEW)

BACKGROUND: The wholesale state law changes in 2017 and 2019 were aimed at streamlining the deployment of wireless communications technology; however, the new laws have achieved the opposite outcome. Now more than ever there is confusion regarding the respective roles of municipalities, the County, and industry stakeholders. Routinely, the City of Coconut Creek has to defend its administrative and regulatory functions regarding work that includes excavation, work in the right of way, and the overall aesthetics oversight for these types of installations. Most recently, it was discovered that small cell installations have been bypassing structural safety review as required by the Florida Building Code whenever the facility is located within a County right-of-way that is within

a municipal regulatory boundary. The legal framework established by the State law is not conducive to the public safety nor does it streamline deployment. Instead, it has created loopholes and gaps in the structural safety review of these facilities. Efficiency and equity call for advocacy to repeal and oppose state laws that preempt local permitting processes, create more redundancies rather than streamlined processes, and create confusion resulting in a power struggle between local and regional governments and industry stakeholders.

POSITION: The City of Coconut Creek **opposes** further legislation preempting local government regulations. The City **supports** legislation that repeals the current state laws pertaining to communications facilities in order to provide local governments with clear authority to regulate matters within the public rights-of-way.

C. 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 to best suit the needs of each local community. (FLC)

D. Multi-modal 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.

E. 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. Local enforcement agencies can only seek remedies against *the property owner and contractor listed on the permit*, making it impossible to remedy actual conditions on the property resulting from incomplete or deficient work under the prior owner's permit. The law encourages 'as is' sales, which allow a property owner to dump a property leaving a new property owner to assume faulty, dangerous or partially completed work, while significantly hampering the local government's ability to mitigate negative consequences. The result is an increase of new property owners who may have faulty and incomplete work, an increase in properties of unsafe conditions in the community and an increase in insurance companies disclaiming coverage based on incomplete work or permit failures.

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

- Clearly provides a mechanism for continuation of inspections 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 Inspectors For Building Permits (NEW):** House Bill 401 (2021) provides significant changes to building inspections. Of concern, the bill creates Section 553.73(4)(l), Fla. Stat. to establish a detailed process allowing an affected party (owner or builder) to file a petition with the Florida Building Commission to challenge whether a local regulation, law, ordinance, policy, land use or zoning provision is a de facto local amendment to the Florida Building Code. While the decision is non-binding and the challenged local entity is afforded the opportunity to defend its position, the new language inappropriately establishes the Florida Building Commission as a potential court over local zoning regulations.

POSITION: The City **supports** the rescission of subsection 553.73(4)(l), Fla. Stat. in its entirety.

3. **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 *someday* cause damage to the sidewalk, which should not qualify it as a danger). (FLC)

4. **County And Municipal Code Inspections (NEW):** The Legislature adopted SB 60 which prohibits local government code inspectors from conducting inspections based on anonymous complaints, requiring at a minimum a name and address from the person filing the complaint. The very real and justified fear of retaliation and reprisal inhibits individuals from filing code enforcement complaints and reduces the efficacy of complaint-based code enforcement systems which focus resources on the most offensive and problematic violations. The alternative is to conduct area-wide code sweeps which results in higher levels of enforcement against larger numbers of property owners.

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POSITION: The City **supports** the rescission of Section 125.69(4)(b) Fla. Stat. to remove the prohibition against anonymous complaints.

5. **Home-Based Businesses (NEW):** House Bills 403 (home-based businesses) and 663 (cottage food industry) both preempt most local regulation of home-based businesses. While the City does accommodate home-based businesses, the new Section 559.955 Fla. Stat. significantly changes the definitions, permitted uses, and tolerated impacts of home-based businesses which are likely to significantly impact residential neighborhoods, causing increased traffic and parking issues from extra vehicles, among other concerns raised by the increased number of unrelated employees permitted. The majority of the regulations imposed are zoning regulations which should be provided at the local level.

POSITION: The City **supports** the repeal of Section 559.955 Fla. Stat. in its entirety and amendment of Section 500.80 Fla. Stat. to require compliance with local zoning regulations (and delete reference to Section 559.955 Fla. Stat.)

6. **Bert Harris – Relief From Burdens On Real Property (NEW – MOVED FROM WATCH LIST):** House Bill 421 amended Section 70.001 Fla. Stat. to revise the Bert J. Harris, Jr., Private Property Rights Protection Act in favor of private property owners by expanding the definition of real property to include any legal interest in land, including surface, subsurface, and mineral estates, and shortening the local government review period for responding to claims from 150 days to 90 days and specifying that written settlement offers are presumed to protect the public interest. Property owners no longer have to file an application and have the application be denied prior to filing a claim and they may challenge an unlawful exaction as soon as he or she must comply with the exaction, without waiting for a written notice of the action from the government. At the property owner's option, the court, rather than a jury, shall determine damages. The bill also amends the attorney fee provisions of the Act by allowing a prevailing claimant to recover attorney fees incurred from the time the claimant files notice with the government instead of from the time the claimant files suit. The bill specifies that a property owner entitled to relief under the Act maintains entitlement to pursue the claim if the owner filed a claim under the Act but subsequently relinquishes title to the subject real property before the claim reaches final resolution.

Further, legislation has been filed for the 2022 Legislative Session that would apply a process identical to that found in the Bert J. Harris Property Rights Protection Act to the business claims process. Essentially, the newly created process would allow businesses to file a claim should a local ordinance result in a 15% or more reduction in their annual revenue. Should the Legislature seek to reform the business claims process, adopting a process conceptually identical to the "Bert Harris Act" is not a workable solution and would not result in any improvements.

POSITION: The City **supports** the repeal of any of the new provisions adopted in HB 421 (2021) and **opposes** legislation that would apply an identical process to other claims brought against local governments.

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. Following the tragedy at Marjory Stoneman Douglas, the Legislature passed moderate gun reforms in SB 7026, also known as the Marjory Stoneman Douglas High School Safety Act. However, a 2020 initiative of the Senate President to pursue additional moderate regulations, such as closing background check loopholes in private sales, received significant opposition from the House. There is currently reason to believe there may be attempts to roll back some of the progress made under the first Marjory Stoneman Douglas High School Safety Act. In 2021, SB 1884 was adopted providing that written *and unwritten* policies are subject to provisions allowing for the recovery of damages. The bill also provided that if, after a complaint is filed regarding the firearms preemption, a local government voluntarily changes the ordinance, regulation, rule, or policy (whether written or unwritten), with or without court action, the plaintiff is considered a prevailing plaintiff. Finally, legislation has been filed for the 2022 Legislative Session that would allow for "Constitutional Carry" or enabling residents to purchase and carry firearms without a permit.

POSITION: The City **supports** legislation that:

- Repeals the 2011 amendment that eliminated local governments' ability to regulate firearms;
- Requires the purchase and ownership of a gun be registered and licensed;
- Would ban assault weapons, automatic weapons, and large external magazine weapons and ammunition;
- Would prohibit any person, other than law enforcement officers, to carry a weapon or firearm into any government facility or park;
- Removes the "written or unwritten" language from Sections 790.33(3)(f)1. and 790.33(3)(f)2.;
- Repeals Section 790.33(3)(f)2. regarding the automatic prevailing party provision.

POSITION: The City **opposes** any effort to repeal or reduce regulations passed in SB 7026 and opposes any legislation that enables persons to purchase and carry firearms without a permit.

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. Legislation proposed in the 2020 Legislative Session would have expanded the prohibition on use of handheld devices while operating a vehicle; however, it was not successful.

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 United States Department of Homeland Security. Local governments are preempted from regulating smoking. In 2020, the Senate passed SB 630, allowing counties and cities to prohibit smoking in public parks owned by them; however, its House companion was never considered in its first committee of reference. In 2021, SB 334 would have permitted counties and municipalities to ban smoking on public beaches and in parks they own; however, the bill was not successful.

POSITION: The City of Coconut Creek **supports** revising Section 386.209, F.S, to authorize 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. 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.

E. 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 as well as 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*.

F. Combating Public Disorder (NEW)

BACKGROUND: House Bill 1, aimed at combating public disorder, amends Section 768.28, Fla. Stat. to provide that a municipality has a duty to allow the municipal law enforcement agency to respond appropriately to protect persons and property during a riot or unlawful assembly. If the municipality breaches that duty, the bill provides the municipality is civilly liable for specified damages proximately caused by the municipality's breach of that duty and sovereign immunity recovery caps do not apply. The new legislation fails to address the emergent circumstances which can be

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evaluated only on-site during an active situation and creates an open window for lawsuits any time there is damage. The unwritten presumption is that if there is damage, then the municipality failed to respond appropriately. The presumption may trigger over-aggressive law-enforcement responses in order to ensure they have not breached their duty, which may do more to inflame an unstable crowd, thereby creating more dangerous and damaging conditions.

POSITION: The City **supports** legislation that eliminates the civil liability imposed in Section 768.28, Fla. Stat. If civil liability is retained, the City **supports** revisions to the statute that more clearly define when a municipality has breached the imposed duty or provides minimum level of response which will be deemed to have fulfilled the duty.

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 provide that 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 if development is coordinated with 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, including supporting initiatives of Governor DeSantis, the Senate President, and House Speaker to increase early learning and improve literacy among elementary grade students.

VIII. Legislative Watch List

- A. COVID-19 Response, including distribution of stimulus funding, economic recovery, safety protocols, and reforms of Florida's unemployment system.
- B. Public Records Legislation (including legislation affecting personnel records)
- C. Building Codes and public oversight of private building inspections
- D. Fiscal Transparency and Responsibility / Ethics Reform

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- E.** Workers Compensation (Chapter 440)
- F.** Heart/Lung Bill (112.18)
- G.** Florida Retirement System
- H.** Municipal Elections
- I.** Complete Streets
- J.** Opioid Crisis
- K.** Medical Marijuana
- L.** Recommendations of the Marjory Stoneman Douglas High School Commission
- M.** SRO Funding
- N.** Local enforcement of Gas Pump Skimmers
- O.** Electronic Smoking Devices
- P.** Form 6 versus Form 1 filing for government officers
- Q.** Cybersecurity (FLC)
- R.** Annexation (FLC)
- S.** Electronic Permit Submittals
- T.** Virtual Inspections
- U.** Recommendations of the Local Government Efficiency Taskforce
- V.** Local Government Report Cards
- W.** Sovereign Immunity Caps (NEW)