

On the Mark: One county, two sets of rules

By MARK STRAIN

Tuesday, January 25, 2011

The highly contested issue regarding the 4/5ths vote for zoning in the eastern areas of Collier County was settled last week when the Board of County Commissioners agreed with the position of the dozen or so large land owners in the rural area. They did so by endorsing the findings of the "independent" arbitrator who last month decided that it only takes a simple majority of elected officials to change zoning in the Rural Lands Stewardship Area (RLSA).

A simply majority of this Board could at times mean two commissioners would be enabled to make decisions on zoning issues that will impact thousands of citizens. Not only do zoning actions within the RLSA impact local landowners, those same decisions will most likely have impacts felt well into adjoining areas such as Golden Gate Estates and Orange Tree. The financial implications will most likely affect taxpayers county-wide. An additional 400,000 plus residents will certainly not go unnoticed.

The immediate benefits of this decision will directly impact the existing major landowners in their overall zoning but it will also apply to all future changes in zoning. Future residents and businesses will have little if any protection from major changes that can be made long after they have taken up residence. Developers will be able to change just about anything into something entirely different with a simple majority vote. This would not be allowed anywhere else in this county and is inconsistent with the process we have existed under since 1967.

There was a lot of discussion about this issue at the commission meeting and some of it was lacking in full detail. For example, those who opposed the 4/5ths vote were said to be the same folks who oppose Jackson Labs since the first issue to be seriously impacted by this vote change would be the proposed move of commercial zoning within Ave Maria where Jackson Labs would be located. After all this time the message held by a vast majority of residents still seems missed by some officials. The substantial opposition has not been against Jackson Labs, but against the funding that was proposed using public dollars without our consent.

The Arbitrator did not see the approval of an entire town in the RLSA as a zoning action even though the 1967 special legislative act requiring the 4/5ths vote covers any type of action whether it is called a zoning ordinance, resolution or whatever. A few lines from the Arbitrator's decision were read at the meeting but what was not read was the definition within the special act that defines what an ordinance is. It states as follows:

"Ordinance: when used in relation to Collier county or the board of county commissioners shall mean a resolution of the board of county commissioners, or shall mean such other appropriate official action as is customarily taken by the governing body involved, regardless of how such official action is regularly called."

We were also told that "zoning ordinances" have to be filed with the State and since zoning involving new areas within the RLSA lands are not filed with the State, that means they cannot therefore be zoning actions and thus do not require a 4/5ths vote. As it turns out, all ordinances get filed with the State, not just "zoning ordinances" and since the zoning actions that occur within the RLSA are adopted as "resolutions" they do not have to be filed in the same manner as "ordinances". Resolutions still fall within the definition of an ordinance under the special act and thus under the voting requirements of that act.

We were also told that because the sentence near the signature line of the resolution for an eastern land zoning action said "by majority vote" instead of "by super-majority vote" that again, this demonstrated that we only needed a simple majority. A super-majority is still a "majority" and since the only approval to date in the RLSA area is Ave Maria, and that was by a unanimous vote, calling it a super-majority would have been equally misleading.

To think that when the RLSA was first voted into our Growth Management Plan we were approving the complete zoning of 195,000 acres, a land plan that one time indicated 22 future town areas of increased intensity and a population with over 400,000 people on a skeleton set of standards, is not logical. This simple majority voting may work for the large land owners out east, but should be a concern for future residents of that area who will not have the benefit of a stronger zoning process.

There was a comment made at the commission meeting that this county is not split between the east and the west, we are all one county. Yet now that this request by the Eastern land owners was approved by a majority of the commission, we are in effect two areas, each treated in a dissimilar manner that will allow development to take place in a very different manner.



© 2011 Scripps Newspaper Group — Online