

## **Chapter 29K-2 Developments of Regional Impact**

### **29K-2.007 Exempting Questions.**

(1) In order to reduce paperwork and eliminate the unnecessary gathering of data, the applicant may be exempted from answering particular questions in the Application for Development Approval. Questions may be exempted if they are not applicable to the type of project proposed, or if the information to be provided is currently readily available to the Council. At the Preapplication Conference the Council shall notify the applicant that questions may be exempted and explain the reasons for such exemptions. The applicant shall be provided an opportunity to request the exemption of specific questions.

(2) The Council shall notify the applicant of exempted questions in a written binding agreement. Within two weeks of receipt of the agreement, the applicant shall sign and return the agreement or provide a written explanation for not signing the agreement. If the applicant wishes additional questions to be exempted beyond those agreed to by Council he shall provide written justification for such additional exemptions. Within two weeks of receipt of such a request, the Council shall provide a new written determination of exempt questions or a written explanation for not exempting questions as requested by the applicant. The applicant may appeal this determination or explanation within 30 days and such appeal shall be decided by the Council at its next regularly scheduled meeting for which the appeal has been requested in a timely manner.

(3) Exempted questions shall remain exempt as long as the application is active unless the data or information upon which the exemption was based is no longer applicable or is found to have been in error. The Council shall provide the applicant with a new written agreement in the event the status of any exempt question changes. The Council shall include a statement of the reason for the change. The new agreement shall be processed in the same manner as for the original agreement.

*Specific Authority 380.06(7)(b) FS. Law Implemented 380.06(7)(b) FS. History--New 11-1-82, Amended 7-22-84, Formerly 29K-2.07.*

## **Chapter 29K-4 Treasure Coast Regional Dispute Resolution Process**

### **29K-4.010 Purpose.**

(1) The purpose of this rule is to establish a voluntary regional dispute resolution process (RDRP) to reconcile differences on planning, growth management and other issues among local governments, regional agencies and private interests. The process consists of two basic components:

- (a) Process initiation (initiation and response letters),
- (b) Settlement meetings, and five optional components:
  1. Pre-initiation meetings,
  2. Situation assessments,
  3. Mediation,
  4. Advisory decision-making, and
  5. Reference to other dispute resolution processes (judicial, administrative or arbitration proceedings).

(2) The intent of the RDRP is to provide a flexible process to reconcile differences on planning and growth management issues that will: clearly identify and resolve problems as early as possible; utilize the procedures in a low-to-high cost sequence; allow flexibility in the order in which the procedures are used; provide for the appropriate involvement of affected and responsible parties; and provide as much process certainty as possible.

(3) The RDRP may be used to resolve disputes involving: extrajurisdictional impacts as provided for in the intergovernmental coordination elements of local comprehensive plans, as required by Section

163.3177, F.S.; inconsistencies between port master plans and local comprehensive plans, as required by Section 163.3178, F.S.; the siting of community residential homes, as required by Section 419.001(5), F.S.; and any other matters covered by statutes which reference the RDRP.

(4) The RDRP shall not be used to address disputes involving environmental permits or other regulatory matters unless all of the parties involved agree to initiate use of the RDRP.

(5) Use of the RDRP shall not alter a jurisdiction's, organization's, group's or individual's right to a judicial or administrative determination of any issue if that entity is entitled to such a determination under statutory or common law.

(6) Participation in the RDRP as a named party or in any other capacity does not convey or limit intervenor status or standing in any judicial or administrative proceedings.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 6-26-94.*

#### **29K-4.011 Definitions.**

(1) "Situation assessment" is a procedure of information collection that may involve review of documents, interviews and an assessment meeting leading to a written or verbal report identifying: the issues in dispute; the stakeholders; information needed before a decision can be made; and a recommendation for appropriate dispute resolution procedures.

(2) "Pre-initiation meetings" are opportunities for a party to discuss the suitability of the RDRP with the RPC staff for resolving their dispute before formally initiating the RDRP.

(3) "Facilitation" is a procedure in which the facilitator helps the parties design and follow a meeting agenda and assists parties to communicate more effectively throughout the process. The facilitator has no authority to make or recommend a decision.

(4) "Mediation" is a procedure in which a neutral party assists disputing parties in a negotiation process to explore their interests, develop and evaluate options, and reach a mutually acceptable agreement without prescribing a resolution. A mediator may take more control of the process than a facilitator and usually works in more complex cases where a dispute is more clearly defined.

(5) "Advisory decision-making" is a procedure aimed at enhancing the effectiveness of negotiations and helping parties more realistically evaluate their negotiation positions. This procedure may include neutral evaluation, or advisory arbitration in which a neutral party or panel listens to the facts and arguments presented by the parties and render a non-binding advisory decision.

(6) "Jurisdiction" is any local government or regional agency, including: special districts, authorities or school boards.

(7) "Named party" shall be any jurisdiction, public or private organization, group or individual who is named in an initiation letter, including the initiating jurisdiction, or is admitted by the named parties to participate in settlement of a dispute pursuant to subsections 29K-4.012(1), (2), and (3), F.A.C. Being a "named party" in the RDRP does not convey or limit standing in any judicial or administrative proceeding.

(8) "Representative" is an individual who is given guidance and authority to act, to the extent possible, by a named party in a RDRP case. Subsection 29K-4.012(3), F.A.C., sets forth the designation process.

(9) "Initiation letter" is a letter from a jurisdiction formally identifying a dispute and asking named parties to engage in this process to resolve the dispute, and, at a minimum, attend the initial settlement meeting. Subsection 29K-4.019(2), F.A.C., specifies what must be included in an initiation letter.

(10) "Response letter" formally notifies the initiator and other named parties that a party is willing to participate in the RDRP and, at a minimum, attend at least one settlement meeting. Subsection 29K-4.019(3), F.A.C., specifies what must be included in a response letter.

(11) "Settlement agreements" may be voluntarily approved by the individual or governing body authorized to bind the named party. Agreements may take the form of memoranda of understanding, contracts, interlocal agreements or other forms mutually agreed to by the signatory parties or as required by law. A settlement may be agreed to by some or all of the named parties.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 6-26-94.*

### **29K-4.012 Participation.**

(1) Named parties shall automatically be allowed to participate. Other jurisdictions, public or private organizations, groups, or individuals, suggested by named parties in response letters or during RDRP meetings or submitting a petition to participate, shall be allowed to become named parties if agreed to by a two-thirds majority of the participating named parties, except as provided for in subsection 29K-4.012(2), F.A.C. Fee allocation agreements will be amended as appropriate.

(2) All initiation and response letters made in accordance with intergovernmental coordination elements (ICE) of local government comprehensive plans shall only list affected local government jurisdictions as named parties. The named parties may at the initial settlement or at subsequent RDRP meetings add public or private named parties by mutual agreement of all the current named parties.

(3) Other jurisdictions, public or private organizations, groups or individuals seeking to become named parties shall submit to the regional planning council staff, a written petition to participate, including reasons for the request and information required in subsection 29K-4.019(2), F.A.C. Such jurisdictions, public or private organizations, groups, or individuals shall become named parties if agreed to by a two-thirds majority of the named parties, prior to or during RDRP meetings; except as pursuant to subsection 29K-4.012(2), F.A.C. Named parties who do not respond within 21 days of the initiation letter may not participate in the RDRP unless they submit a petition for participation.

(4) Each of the jurisdictions, organizations, groups, or individuals participating as named parties in this process shall designate a representative, in writing, or be represented by the chief executive officer. Such a representative shall have authority to act, to the maximum extent possible, and shall have responsibility for representing that party's interest in this process and maintaining communications with that party throughout the process. Jurisdictions are encouraged to designate a representative to participate in the RDRP in advance of initiating or receiving a request.

(5) Any named party may invite individuals or organizations to attend meetings under this process who can provide information and technical assistance useful in the resolution of the dispute. The parties, by agreement, or the presiding neutral shall determine when and under what circumstances such invited parties may provide input.

(6) All communications by a named party called for in this process shall be submitted to all other named parties and the RPC staff in writing.

(7) All named parties who agree to participate in this process commit to a good faith effort to resolve problems or disputes.

(8) Any named party may withdraw from participation in the RDRP upon written notice to all other named parties and the RPC staff.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 6-26-94.*

### **29K-4.013 Costs.**

(1) There shall be no charge for processing a RDRP initiation request and facilitation at the initial settlement meeting. The RPC shall be compensated for situation assessments, facilitation of additional settlement meetings, mediation, advisory decision-making, technical assistance and other staff services at a rate based on reasonable actual costs plus any additional out-of-pocket expenses. Outside professional neutrals shall be compensated at their standard rate or as negotiated by the parties.

(2) The costs of administration, settlement meetings, mediation or advisory decision-making shall be split equally between the parties or according to another agreed upon allocation. The agreed upon cost allocation shall be documented in a written fee agreement.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History—New 6-26-94.*

**29K-4.014 Time Frames.**

(1) The initial settlement meeting shall be scheduled and held within 30 days of the date of receipt of the initiation letter at a time and place convenient to the named parties.

(2) Additional settlement meetings, mediation or advisory decision-making shall be completed within forty-five (45) days of the date of the conclusion of the initial settlement meeting.

(3) All time frames specified in this rule may be shortened or extended by mutual agreement of the named parties.

(4) The parties may, by mutual agreement, utilize procedures in the RDRP in any order.

(5) Where necessary to allow this process to be effectively carried out, named parties should address deferring or seeking stays of judicial or administrative proceedings.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

**29K-4.015 Administrative Protocols.**

The regional planning council is authorized to write and adopt such administrative procedures as are necessary to implement this rule. These may address staff and council roles, procedures for situation assessment, selection of neutrals, consumer guides or other matters. Where required pursuant to Section 120.52, F.S., policies and guidelines should be adopted as rules.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

**29K-4.016 Public Notice, Records, and Confidentiality.**

(1) Named parties should consider providing appropriate opportunities for public input at each step in this process, such as submitting written or verbal comments on issues, alternative solutions and impacts of proposed agreements.

(2) Applicable public notice and public records requirements shall be observed as required by Chapters 119 and 120, F.S.

(3) Participants in these procedures agree by their participation that no comments, meeting records, or written or verbal offers of settlement shall be offered by them as evidence in a subsequent judicial or administrative action.

(4) To the extent permitted by law, mediation under this process will be governed by the confidentiality provisions of Chapter 44, F.S., and other applicable law.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

**29K-4.017 Pre-Initiation Meeting.**

A jurisdiction, organization, group, or individual contemplating initiation of this process may request an informal pre-initiation meeting with the RPC staff in order to ascertain whether the potential dispute would be appropriate for this process.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

**29K-4.018 Situation Assessment.**

(1) A jurisdiction, organization, group, or individual may request that the RPC staff or other neutral perform a situation assessment at any time, before or after initiation of the process.

(2) The situation assessment may involve examination of documents, interviews and assessment meetings, and shall recommend issues to be addressed, parties that may participate, appropriate resolution procedures, and a proposed schedule.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

**29K-4.019 Initiation of the Process by Jurisdictions.**

(1) This process is initiated by an initiation letter from the representative of the governing body of a jurisdiction, other than a regional planning council, to the named parties as provided for in subsection 29K-4.012(1) and (2), F.A.C., and to the RPC staff. The initiation letter must be accompanied by a resolution of the governing body authorizing initiation or by a copy of a written authorization of a representative to initiate requests to use the RDRP.

(2) Such an initiation letter shall identify: the issues to be discussed, named parties to be involved in the dispute resolution process, the initiating party's representative and others who will attend, and a brief history of the dispute indicating why it is appropriate for this process.

(3) Named parties shall send a response letter to the RPC staff, and all other named parties confirming their willingness to participate in a settlement meeting within twenty-one (21) days of the receipt of initiation letter. This response letter shall include any additional issues and potential named parties the respondent wishes considered, as well as, a brief history of the dispute and a description of the situation from the respondent's point of view.

(4) Upon receipt of a request, the RPC staff shall assess its interest in the case. If the RPC is a named party or sees itself as a potential party, it shall notify the named parties of the nature of its interest and ascertain whether the parties desire an outside facilitator for the initial settlement meeting.

(5) The RPC may not initiate the RDRP but may recommend that a potential dispute is suitable for this process and transmit its recommendation to potential parties, who may, at their discretion, initiate the RDRP.

(6) The RPC staff shall schedule a meeting at the most convenient time within thirty (30) days of the date of receipt of the initiation request.

(7) In the event that a dispute involves jurisdictions under two or more regional planning councils, the process adopted by the region of the initiating jurisdiction shall govern, unless the named parties agree otherwise.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 6-26-94.*

**29K-4.020 Requests to Initiate Submitted by Others.**

(1) Private interest may ask any jurisdiction to initiate the process.

(2) Any public or private organization, group, or individual may request that the RPC recommend use of this process to address a potential dispute in accordance with subsection 29K-4.019(5), F.A.C. Such a request shall be submitted in writing and shall include the information required for in an initiation letter in subsection 29K-4.019(2), F.A.C.

(3) After reviewing the rationale submitted by, and consulting with, the requesting organization, group, or individual, the RPC staff will conduct a situation assessment and respond in writing.

(4) If the RPC determines that the potential dispute is suitable for the process, it shall transmit that determination in writing to the potential parties, as agreed upon by the RPC and the requester. The determination may include a recommendation that one or more of the jurisdictions among the potential parties initiate the procedure. The RPC may also suggest that other resolution processes be considered.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History--New 6-26-94.*

**29K-4.021 Settlement Meetings.**

(1) Settlement meetings shall, at a minimum, be attended by the named parties' representatives designated pursuant to subsection 29K-4.012(4), F.A.C.

(2) Settlement meetings may be facilitated by an RPC staff member or other neutral facilitator acceptable to the parties and shall be held at a time and place acceptable to the parties.

(3) At the settlement meeting, the parties shall: consider adding named parties, consider guidelines for participation, identify the issues to be addressed, present their concerns and constraints, explore options for in a solution, and seek agreement.

(4) The parties shall submit a settlement meeting report in accordance with subsection 29K-4.024(4), F.A.C., of this process.

(5) If an agreed-upon settlement meeting is not held or a settlement meeting produces no agreement to proceed to additional settlement meetings, mediation or advisory decision-making, any party who has agreed to participate in this procedure may withdraw from the RDRP or proceed to: a joint meeting of governing bodies pursuant to Chapter 164, F.S., litigation, an administrative hearing or arbitration, as appropriate.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

#### **29K-4.022 Mediation.**

(1) If two or more named parties submit a request for mediation to the RPC, the RPC shall assist them to select and retain a mediator or the named parties may request that the RPC select a mediator.

(2) All disputes shall be mediated by a mediator who understands Florida growth management issues, has mediation experience and is acceptable to the parties. Parties may consider mediators who are on the Florida Growth Management Conflict Resolution Consortium rosters or any other mutually acceptable mediator. Mediators shall be guided by the Standards of Professional Conduct, Florida Rules of Civil Procedure, Rule 10, Part II, Section 020-150.

(3) The parties shall submit a mediation report in accordance with subsection 29K-4.024(4), F.A.C., of this process.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

#### **29K-4.023 Advisory Decision-Making.**

(1) If two or more of the named parties submit a request for advisory decision-making to the RPC, the RPC shall assist the parties to select and retain an appropriate neutral or the parties may request that the RPC make the selection.

(2) All disputes shall be handled by a neutral who understands Florida growth management issues, has appropriate experience and is acceptable to the parties.

(3) The parties shall submit an advisory decision-making report in accordance with subsection 29K-4.024(4), F.A.C., at the conclusion of advisory decision-making.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

#### **29K-4.024 Settlement Agreements and Reports.**

(1) The form of all settlements reached through this process shall be determined by the named parties, and may include interlocal agreements, concurrent resolutions, memoranda of understanding, plan amendments, deed restrictions, or other forms as appropriate.

(2) Agreements signed by designated representatives may be in the form of recommendations to formal bodies and subject to their formal approval.

(3) Agreements may be reached by two or more parties even if all of the named parties do not agree or do not sign a formal agreement.

(4) After settlement meetings, mediation, or advisory decision-making under this process, the named parties shall submit a joint report to the RPC staff which shall, at a minimum include:

(a) Identification of the issues discussed and copies of any agreements reached;

(b) A list of potentially affected or involved jurisdictions, organizations, groups, or individuals (including those which may not be named parties);

(c) A time frame for starting and ending agreed to informal negotiations, additional settlement meetings, mediation, advisory decision-making, joint meetings of elected bodies, administrative hearings or litigation;

(d) Any additional RPC assistance requested;

(e) A written fee allocation agreement to cover the costs of agreed upon RDRP procedures; and

(f) A description of responsibilities and schedules for implementing and enforcing agreements reached. The report shall include any statements that any named party wishes to include.

*Specific Authority 186.509 FS. Law Implemented 186.509 FS. History–New 6-26-94.*

## **Chapter 29K-5 Regional Comprehensive Policy Plan**

### **29K-5.002 Strategic Regional Policy Plan.**

There is hereby adopted, for the Treasure Coast Region, the Strategic Regional Policy Plan of the Treasure Coast Regional Planning Council dated December 15, 1995, which is incorporated herein by reference and copies of which are kept at Council offices at: 3228 S. W. Martin Downs Boulevard, Suite 205, Palm City, Florida 32990.

*Specific Authority 186.508(1) FS. Law Implemented 120.535(1), 186.507, 186.508(1) FS. History–New 2-28-96.*