

BALDWIN COUNTY COMMISSION

AGENDA ACTION FORM

[Agenda Item Preparation Procedures](#)

AGENDA ITEM NUMBER: _____

EI

Work Session Meeting Date: 7/24/2012 Commission Meeting Date: 8/7/2012

TITLE/SUBJECT: Remanding the *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025* to the Baldwin County Planning & Zoning Commission – Rescinding Resolution No. 2009-94

TO: The Honorable Members of the Baldwin County Commission
THRU: David Brewer, County Administrator
FROM: Vince Jackson, Planning Director



STAFF RECOMMENDATION:

Adopt Resolution #2012-075 which will repeal, rescind, void and nullify the *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025* and further remand said plan to the Baldwin County Planning and Zoning Commission with instructions for it to prepare a revised Master Plan and corresponding Map for consideration and possible future adoption by the Baldwin County Commission. Such Master Plan so recommended by the Baldwin County Planning and Zoning Commission shall not unlawfully infringe on protected private property rights without due process of law; further to specifically repeal, rescind, void and nullify Resolution #2009-94 (adopted at the July 7, 2009, regular meeting).

PREVIOUS COMMISSION ACTION: yes no Date: July 7, 2009, regular meeting

BACKGROUND:

Section 45-2-261, et seq., Code of Alabama 1975, provides for the application of planning and zoning in unincorporated Baldwin County, Alabama.

During the 2012 Regular Session of the Alabama Legislature, the Alabama Legislature adopted Act No. 2012-598 which, related to due process, prohibits the State of Alabama and its political subdivisions from adopting and developing environmental and development policies that, without due process, would infringe or restrict the private property rights of the owner of the property. Act No. 2012-598 defines a political subdivision to include, among others, a county. Baldwin County, Alabama, remains a political subdivision of the State of Alabama and a county as defined by Section 11-1-1 of the Code of Alabama 1975.

During the July 7, 2009, regular meeting, the Baldwin County Commission, pursuant to the authority contained in Section 45-2-261, et seq., Code of Alabama 1975, adopted Resolution #2009-94 which adopted a comprehensive plan for unincorporated Baldwin County, said comprehensive plan entitled *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025*.

While Section 45-2-261.03, Code of Alabama 1975, provides a duty and function of the Baldwin County Planning and Zoning Commission to make and maintain in an up-to-date manner, a master plan for the physical development of the unincorporated areas of Baldwin County (i.e. the *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025*), Act No. 2012-598 specifically provides in pertinent part as follows:

"The State of Alabama and all political subdivisions may not adopt or implement policy recommendations that deliberately or inadvertently infringe or restrict private property rights without due process, as may be required by policy recommendations originating in, or traceable to "Agenda 21," adopted by the United Nations in 1992 at its Conference on Environment and Development or any other international law or ancillary plan of action that contravenes the Constitution of the United States or the Constitution of the State of Alabama."

In compliance with Act No. 2012-598 which shall become law on August 1, 2012, the Baldwin County Commission is concerned that the *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025* may contain provisions which, if applied, could be contrary to said Act No. 2012-598 which specifically disallows the implementation of policy recommendations that deliberately or inadvertently infringe or restrict private property rights without due process.

In order to remedy the aforesaid concern it is only proper and necessary for the Baldwin County Commission to remove and rescind its July 7, 2009, approval of the *Horizon 2025: The Baldwin County Comprehensive Plan 2008-2025* and remand such to the Baldwin County Planning and Zoning Commission for its review and revision and, thereafter, its submission consistent with the instructions as contained in the attached Resolution to be considered for adoption at the August 7, 2012, regular meeting and compliant with Section 45-2-261.03, Code of Alabama 1975, of a final report back to the Baldwin County Commission regarding the same. Such Master Plan so recommended by the Baldwin County Planning and Zoning Commission shall not unlawfully infringe on protected private property rights without due process of law.

Attached to this agenda item is a copy of the *Generalized Land Use Plan, Baldwin County, Alabama, 2010*. This map was approved by the County Commission in 1994 and was utilized by the Planning Department prior to the adoption of *Horizon 2025*.

FINANCIAL IMPACT:

N/A X (120)

- 1. Total cost of recommendation: \$ _____
- 2. Are the funds budgeted for this recommendation? **no** _____
If not, why not: _____
- 3. Budget line item to be used: _____
Balance remaining in the line item after recommended expenditure:
\$ _____
- 4. Will the recommendation create a need for continued funding, which is not included in the current budget? **yes** _____ **no** _____
If yes, how will this funding requirement be met in the future? _____

Budget Manager Approval: _____ **Date:** _____

LEGAL IMPACT:

N/A X

- 1. Are any legal documents required to be executed if this recommendation is approved?
Yes _____ No _____
- 2. Is Legal creating _____ reviewing _____ or revising _____ the documents? If not, why? _____
- 3. Are the documents attached to this recommendation? Yes _____ No _____
- 4. Are the terms of the document properly reflected in the *Staff Recommendation*? _____
- 5. Department Notes: _____

Approved as to form only: _____ / _____
Counsel **Date**

Legal Notes: _____

_____ / _____
Counsel **Date**

PROOF OF ADVERTISING:

[Advertisement Requirements in Media Publications](#)

- 1. Was there or will there be an advertisement required for this recommendation?
yes **no** _____
- If yes, in what newspapers did or will the advertisement appear? All Gulf Coast Newspapers in general circulation within Baldwin County.

If advertisement has already taken place, is the "Legal Affidavit/Proof of Publication" from each newspaper attached? **yes** _____ **no** X (see notes below) _____

If not, why? The regular legal publication for the Baldwin County Commission Public Hearing for is currently running as well as the required display, one-quarter page advertisement. Regular legal run dates are July 17, 2012, July 24, 2012, and July 31, 2012. Display, one-quarter page run date is July 24, 2012. Proof of publication for the Baldwin County Commission public hearing is forthcoming and will be provided to the Records Manager prior to the final public hearing date of August 7, 2012.

CONSISTENCY WITH B.C. STRATEGIC PLAN – 2006-2016: N/A X

[2006-2016 - B.C. Strategic Plan](#)

1. Is the recommendation consistent with goals set forth in the Strategic Plan?
yes no

If yes, what is the strategic objective and how does the recommendation address this goal? _____

If no, what is the justification for approving the recommendation? _____

POLICY IMPACT: N/A X

[Baldwin County Policies and Procedures Library](#)

1. Is the proposed recommendation consistent with Commission policy? yes no
2. Which Commission policy is applicable to this recommendation?

3. If an exception to Commission policy is required, what is the justification for this exception? _____

PERSONNEL IMPACT: N/A X

1. Open, funded position? Yes No Position Number _____
2. Newly created position? Yes No Position Number _____
- Describe changes or additions needed _____

Personnel Director: _____ Date: _____

IMPLEMENTATION:

1. Department and individual responsible for follow up activities on recommendation: Baldwin County Planning & Zoning Department.
2. Specific action/actions required as follow up: Prepare proposed revisions to Comprehensive Plan for submission to Planning Commission.
3. Are other Departments/Individuals necessary to complete the follow up activities? If so, specify: N/A

ALTERNATIVES:

ATTACHMENTS:

1. Resolution # 2012-075
2. Act No. 2012-598
3. *Generalized Land Use Plan, Baldwin County, Alabama, 2010*
4. Proof of publication for the Baldwin County Commission public hearing is forthcoming and shall be provided to the Records Manager prior to the final public hearing date of August 7, 2012.
(See note under *Proof of Advertising*)