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Wakulla wetlands battle to heat up



Commissioners set to eliminate wetlands setbacks as voters gather signatures for ballot question

By Jennifer Portman
Democrat senior writer

Wakulla County commissioners are poised to scrap wetlands protections from the books starting next month, but opponents expect to have enough signatures to try to overturn the divisive measure at the ballot box next fall.

The county commission plans to vote on Feb. 18 to remove from its comprehensive plan a provision that calls for a 75-foot buffer around wetlands. The move is the first step, begun last summer, to get rid of the county's wetlands protection ordinance, which bans all development within 35 feet of wetlands and restricts building within 40 additional feet if no other options exist.

The current majority of the board says the rule is an unnecessary impediment to development and infringes on personal property rights in a county where about 60 percent of the land is wetlands. The move signals a departure from years of efforts to enhance local policies aimed at water-quality protection. Three years ago, the board, with different members, unanimously approved the reinstatement of the ordinance, first adopted in 2006.

Commissioner Howard Kessler, the lone board member opposed to the plan, asked in August that the decision on the land-use change be left to the citizens. When the effort was rejected 4-to-1 by the commission,

Wetlands like these in Wakulla County are at the center of a fierce debate between their protection and property-development rights. DEMOCRAT FILES

"We feel very comfortable we will get the petition on the ballot."

RON PIASECKI,
Wakulla Wetlands Alliance member

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citizens mobilized and launched an initiative-petition drive to put the question on the general-election ballot in November.

As of last week, the petition drive, spearheaded in September by the newly formed, citizen-led Wakulla Wetlands Alliance, had gathered more than 5,000 signatures — nearly enough to meet its 5,500-signature March 3 deadline.

To get the issue on the ballot requires signatures from 30 percent of registered voters in the county and in each of its five voting precincts, a bar three times as high as must be met in other charter-government counties, such as Leon County.

"When we started out, we said this is going to be an insurmountable goal getting that number, then lo and behold," said alliance member Ron Piasecki. "We feel very comfortable we will get the petition on the ballot."

State reservations

The majority of the county commission is expected to rescind the wetlands protections from its comprehensive plan despite comments from the Northwest Florida Water Management District and the Florida Department of Environmental Protection indicating the county's additional measures are needed to protect the fragile ecosystem.

While the state's Environmental Resource Permitting program calls for a 25-foot-average buffer from larger-scale development near wetlands, both agencies said in letters last month Wakulla County's local buffer restriction provided better protection for wetlands, surface water and the function of their related habitats. The state buffer rules do not apply to all development, and, for example, do not cover single-family homes that are not included in larger development plans.

To ensure continued protection of wetland and water resources of Wakulla County," the water management district wrote, "it is recommended that the county consider retaining policy language that provides for wetland resource protec-

tion and buffer zones."

The Florida Fish and Wildlife Conservation Commission said the 75-foot buffer "may result in hardships to property owners." But DEP said in its letter the agency believed the county's development goals could be accomplished by maintaining some additional buffering around wetlands and called the measure "a valuable tool for the county to protect surface water quality."

"There are many areas where the Wakulla County Ordinance would provide more protection," DEP's letter said. "Those wetlands are valuable resources and do provide protection to important state resources."

County commissioners, including Commissioner Jerry Moore, disagree. They say that the state-buffer requirements are enough and adding more layers of government bureaucracy will only hurt the ability of people to build on their land.

"Twenty-five feet is fine," he said. "There is no science that says 75-feet feet is going to do twice as good."

Commissioner Kessler said the majority of the board is emboldened because they think they will not be challenged by state agencies. DEP Deputy Secretary Jeff Littlejohn indicated in a meeting, Kessler said, that the agency would not officially oppose the plan change, but would continue to research the matter.

"If the board feels that they will not be chal-



Commissioner Howard Kessler, right, pictured with wetlands expert Victor Lambou, cast the lone vote against rescinding the ordinance. JENNIFER PORTMAN/DEMOCRAT FILES

lenged by the agencies no matter what the agency comments are, they are taking the opportunity to proceed," Kessler said.

But he added: "Why should you endeavor to do away with exactly what the agency says is appropriate and needed?"

Ordinance change to come

If the comprehensive plan is altered, opponents could challenge it through the state administrative court process. Moore, however, said he expects the comprehensive-plan change will pass and supports moving forward right away to repeal its implementing ordinance.

"We will press ahead. I don't expect the vote to

change anything. I think they will lose the vote," he said. "It's not a wetlands issue, it's a setback issue. ... This is depriving people of the right to build."

But others—including county staff members—question the wisdom of quickly killing the ordinance after the state-required alteration of the comprehensive plan is accomplished. Changing the comprehensive plan is the first step in striking the measure from the books. The wetlands-setback rules would continue to be enforced until the local ordinance were to be rescinded.

With a referendum looming, county planning director Luis Serna said county staff would recommend the commission

delay any move to get rid of the ordinance until after the results of a vote. If the referendum were to succeed, the county could face legal problems stemming from land purchases or development requests made in the months the wetlands ordinance was not in effect.

"Assuming it makes it on the ballot we will recommend not to move forward," Serna said. "We would definitely alert them of (potential lawsuits). But they could do what they want, of course."

Kessler hopes opponents will have enough signatures to put the question on the ballot by the upcoming board meeting and the outpouring of opposition will convince

his fellow commissioners to slow down. "I'm hoping that when the board sees those actual numbers at the February meeting they will reconsider the actions and speed they are taking," Kessler said. "It would be totally unreasonable for them to proceed (with rescinding the ordinance) in light of a successful petition drive."

Said Piasecki: "You know it is going to be on the ballot, so why not wait six more months? If it fails you can go ahead and get rid of it."

Moore, who is up for re-election in November, said he has no problem with putting the question to voters, but criticized the way the petition drive has been conducted.

"They have sold this as a right-to-vote issue," he said. "They have not sold this as a setback issue."

Many of the main supporters of the petition drive, Moore added, live near wetlands.

"They have theirs, but they don't want anybody to have theirs," he said.

Petition supporters, however, say their immediate success is a genuine indication of voter sentiment.

"Whether they vote yes or no on it," Piasecki said, "they feel it's an important issue that they should have a right to vote."

Kessler said nearly all of the people approached to sign the petition were eager to do so.

"My gut is, overwhelmingly, the citizens would be voting for the local protections," he said.