

A report based upon internal documents obtained from DCA in a January 14, 2000 public records search by Florida PEER

II. The Secret Plan for Growth Management "Reform" in 2000

In order to reassure environmentalists that his administration was not going to join the stampede in the Florida Legislature to conduct a wholesale rewrite of growth management laws, Governor Jeb Bush and Steve Seibert, his Secretary of the Department of Community Affairs (DCA), have repeatedly stated that they hope to gather input and develop consensus this year and then proceed in the 2001 Session of the Legislature to pass legislation. As observed by the *Palm Beach Post* on Dec. 23, 1999:

Last week, Gov. Bush emerged from a meeting with Mr. Seibert to say that "doing what's right" is more important than quick action. The vehicle for doing what's right seems to be a bill by Sen. Tom Lee, R-Brandon, to put up \$250,000 for a study commission and statewide hearings before anyone drafts a bill. What a concept: Look before you charge into traffic jams and built-over wetlands. The House never would have thought of it. It's good to have a Senate.

The reality is more complicated than the public posture. Over the past six months, Bush and Seibert have been sending inconsistent legislative positions on the timing, if not the substance, of growth management. They often have seemed willing to get there as fast or as slow as the most anti-environmental legislators want to go. Only when the public pressure mounts do they retreat behind pronouncements to prepare for another day, *i.e.*, the 2001 legislative session.

In point of fact, Bush and Seibert often have given mixed messages about the timing of proposed Growth Management Reform. A 1999 chronology -- Bush-Seibert first year in office -- suggests that their internal actions are at odds with their public statements.

The [original proposal](#) circulated on May 12, 1999 by the DCA workgroup showed the reform act should be prepared for the 2000 legislative session.

Less than three months later, in an [August 9, 1999 email](#) to DCA staff, Seibert reflected the more cautious public posture, suggesting they should be ready for recommendations to the Governor sometime "next" summer, *i.e.*, the summer of 2000, after the 2000 legislative session. Meanwhile, there were internal signs that the original time line was still operative. For example, [July 16, 1999 staff notes](#) referenced the DCA general counsel's "concern that folks may move forward w/ legislation before they do." .

Seibert apparently began to realize that he could not hold back legislative efforts until the 2001 Florida Legislature. A Sept. 15, 1999 E-mail to staff indicated, "It is very important that we get the message out ASAP [about Seibert's plans], especially considering the bill filed by George Albright -- HB 139." Representative Albright is a Republican from Ocala.

By September 29, 1999, DCA's general counsel wrote staff insiders a [critical E-mail](#) about the timing of growth management reform. Entitled "fall back ideas for growth management," it perhaps should have been entitled "Back to the Future" in terms of both legislative timing and substance. She wrote:

After talking with Rep. Albright and receiving some more info about the potential for House member efforts in the growth management arena, Secretary Seibert has asked me to work with you on some potential fall back legislative amendments in the growth management arena. I'm thinking that we may want to involve [two named staffers], perhaps others. Let me know who you want to work with. I'll probably ask [one or more named staff attorneys] to work on it as well.

The next day, DCA's general counsel sent another E-mail regarding the need "to set up a meeting with [key staffers] to discuss potential items for fall-back growth management legislation."

According to staff notes, the reason for this shift in strategy was the governor's political assessment that he might as well go along, rather than resist, the building legislative pressure.

In cryptic words and phrases, the outline of the behind-the-scenes maneuvering emerges:

House/Senate leadership wanted
growth mgt legislation this session.
Short form bill --
Seibert wanted to wait --
Pressure in the Legislature
to do something.
Governor felt something will happen
and asked Seibert to work
w/ Albright.
Things are conceptual at this
time.
Met w/ Secretary four hour sessions
will continue to meet w/ him.

See the above document [here](#).

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Draft bill after the first of the year.
--Citizen standing-- loser pays system --
finality in standing
--Philosophy -- shift

See the above document [here](#).

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--Albright's bill -- We will work together not an
adversarial position.
Change in these areas -- 2001 not likely.
Reform sooner in 2000--
Be responsive w/ legislative efforts.

See the above document [here](#).

The DCA Assistant Secretary went so far as to announce, in a [October 4, 1999 E-mail](#), the opportunity to use the services of an industry lobbyist and Bush supporter to help draft any fall back legislation:

I want to make sure that we take advantage of [his] offer to help draft legislation FOR FREE, should we get to that fall back position. Please keep this in mind.
Jim.

A key DCA staffer observed on [October 27, 1999](#) that it was "not a big deal" that Rep. George Albright, R-Ocala, was conducting a meeting on growth management reform without inviting DCA: "It just means that we must continue to keep the lines of communication open between the Rep., staff, and the department."

In his [November 1, 1999 E-mail](#) to Governor Bush, Seibert stated, "I believe there is interest in accomplishing significant changes in growth management during the upcoming legislative session; I will more aggressively 'vet' these issues with our survey and public meetings and will be prepared to implement these changes should there be a legislative will to do so."

Bush and Seibert's position on how and when growth management gutting should occur was in a state of flux. Events were unfolding so quickly that they were even difficult for top staff insiders to keep up with. On Nov. 5, 1999, the DCA general counsel received an [E-mail](#) that stated:

Last week you signed (for the Secretary) a letter to the President of the Senate and Speaker of the House requesting a one-year delay in the submittal of legislation to implement recommendations of the Transportation and Land Use Study Committee. This letter was forwarded to FDOT for co-signature by Secretary Barry. In view of the expedited schedule for our growth management reform initiative, would you like me to retrieve the letter from FDOT.?

The DCA general counsel was terse in her Nov. 5, 1999 E-mail response: "I absolutely think we ought to redo the letter."

Meanwhile, Rep. Albright's agenda for growth management "reform" was described in his hometown newspaper, the *Ocala Star-Banner*, in a two-part editorial. On 11/14/99, the *Star-Banner* wrote:

To say Albright has contempt for the DCA would be understatement. . . . Any attempt to impede property rights is, in Albright's view, "oppressive" and plain old "socialism." Albright recently submitted House Bill 0139, which could turn power to local government boards when it comes to decisions associated with the Comprehensive Plan. . . . Taking control of

growth management would be at the discretion of county commissions and city councils.

His ideas will no doubt fall on fertile ground when it comes to developers . . .

If it weren't for his longstanding (sic) disdain for state-controlled growth management, Albright's motives might be suspect. He admits to representing [the proponent of a 5,000 home mega-development in South Marion County] on legal matters and acknowledges intervening for [another developer] during its DCA review on [another development], its yet-to-be-built mega-development on [State Road] 200.

In both cases, Albright saw nothing wrong with his involvement with big developers. . . .

Albright implied his actions are in sync with the intentions of Gov. Jeb Bush and Steve Seibert, secretary of the Department of Community Affairs. . . .

Seibert hopes to receive, analyze and make recommendations from the surveys by the 2001 legislative session. But Albright appears headed for some one-upmanship. The 2000 legislative session will be his last, due to term limits, and he is determined to push HB0139 through as his last hurrah.

At a meeting requested by the Star-Banner's Editorial Board this week, Albright explained his views on the bill. It was disconcerting. Albright, who comes from a family of local real estate developers, believes the state was doing better before the Growth Management Act was adopted in 1986. He opposed the Act. Last year he drove legislation through that removed aquatic preserve protection from Lake Weir, where his family owns property.

He firmly believes most of Florida is destined to be developed and is content to let it happen -- believing it can't be stopped. He seems comfortable with the fact that the quality of life, as we now know it, will deteriorate -- reasoning, "Anytime you have a high growth state, you lose quality of life."

(Emphasis added by PEER.)

By early December, other legislators were beginning to pile on. Rep. David Bitner, R-Port Charlotte, said that he was drafting a bill to abolish outright the state's regional planning councils, which review comprehensive growth plans and developments of regional impact, and have authority to appeal to DCA comprehensive plan issues. Reported the *Charlotte Sun Herald* on December 4, 1999:

"Do you know what happens when you put a bill in like this?" [Bitner] asked. "You start a discussion with everyone involved."

The bill, in fact, could add a spark to a tinderbox of controversy already brewing over a proposed overhaul of the state's Growth Management Act.
...

The workshops were originally planned to reach a consensus on legislation for the 2001 legislative session, Seibert said Friday.

But taking a year to draft the legislation "is just not how it's going to be," he said.

He said a number of the 70 lawmakers who are leaving the Legislature next year due to the 8-year term limit are pressing for the reforms to get passed in the 2000 session.

The drive was announced by state Rep. George Albright, R-Ocala, at a conference of regional council planners last month. Gov. Jeb Bush has called upon the DCA to assist Albright in getting the legislation through, Seibert confirmed Friday.

The Florida Chapter of the American Planning Association, in its *Capitol Highlights*, reported on December 14, 1999:

While DCA officials announced early on their call for growth management revisions to be addressed in the 2001 Legislative Session, their efforts to build eventual support for a major rewrite has fueled the fires for the lead House member now pushing to revamp the law in the upcoming Session.

According to state Representative George Albright, speaking before a group of Regional Planning Directors, he and Secretary Seibert are in agreement on 90-95% of what needs to be done to change the current process.

Albright has also said he will delay release of his bill in order to limit the opportunities for opponents to work against it. . . .

Though the Governor's Office has not announced an official position, the DCA is no longer objecting to the notion of a rewrite taking place this Session. Representative Albright has asked the Administration to help him draft his bill, and he has said that the Governor wants the legislation to go forward at this time as well.

Within days, however, Bush and Seibert began to refine their support for wholesale growth management reform in the 2000 Legislature to one of supporting "'streamlining,'

relatively non-controversial amendments to growth management statutes during the upcoming legislative session."

Various versions of the document stamped "Draft - 12/17/99 - S.M.S." and entitled "Considerations for Growth Management Reform" began to be drafted. One copy of the Dec. 17, 1999 draft obtained by PEER had a yellow Post-It note on the front stating "Possible for 2000 Legislation." A [hand-edited copy](#) with a section entitled "Potential Year 2000 Streamlining Amendments" went so far as to strike through the paltry language on "Citizen Access," which had stated:

Allow owners of adjacent property to challenge local decisions even if they live outside the jurisdiction.

Confirm the right of an association otherwise meeting standing requirements to challenge local land use decision.

Seibert apparently had no similar hesitancy when it came to the items calling for Year 2000 changes to: (a) the "Comprehensive Plan Review Process," which include increasing thresholds for small scale amendments that would not require DCA oversight; and (b) "Development of Regional Impact," which include eliminating marinas and petroleum storage facilities from DRI review.

Indeed, in a [January 24, 2000](#) memo to the Growth Management Advisory Panel, Seibert again spells out his growth management reform principles, this time including an even more narrow view on public participation that would "prevent it from becoming a tool for harassment." The memo reiterates DCA's endorsement of "less controversial" amendments to Growth Management legislation in 2000, going so far as to list eight types of amendments that DCA would support.

Thus, the emerging posture of the Bush Administration is that passage of some DCA-trimming, if not gutting, bills can go forward with the endorsement of the agency, even before Seibert completes his statewide listening tour.

The true agenda of Bush-Seibert is being pushed even upon the seemingly innocuous commission study bill. The December 17, 1999 internal document referenced above makes it clear that Bush-Seibert's support for setting up a commission is conditional: "bill must give direction to accomplish the goals stated above." In other words, deliberations by a commission will be tolerated so long as the final product supports the pre-established conclusion that state growth management should be dismantled.

NOTE: Be sure to sign up for *Florida* PEER web updates ("PEERmail") on the emerging "insider" story of Jeb Bush's plan for growth management "reform" in Florida.