

GENERAL COUNSEL'S REPORT
November 17, 2020

Consent Agenda

Concurrence with Emergency Order Nos. SWF 20-047 Suspending Certain Statutes, Rules, and Orders in Response to Tropical Storm Eta

On November 7, 2020 the Office of the Governor issued Executive Order No. 20-277 (“EO 20-277”), declaring a state of emergency in Broward, Collier, Hendry, Lee, Martin, Miami-Dade, Monroe, and Palm Beach counties based on the imminent threat to the public health, safety, and welfare of the citizens of the State due to the effects of Tropical Storm Eta (“Eta”). On November 11, 2020, the Office of the Governor issued Executive Order 20-278 (“EO 20-278”), expanding the state of emergency declaration to include Citrus, Hernando, Hillsborough, Levy, Manatee, Marion, Pasco, Pinellas, Sarasota, and Sumter counties.

In accordance with Section 252.36, Florida Statutes (“F.S.”), EOs 20-277 and 20-278 provide that each state agency may suspend the provisions of any regulatory statute, rule, or order prescribing the procedures for the conduct of state business if strict compliance with the provisions of the statute, rule, or order would in any way prevent, hinder, or delay necessary action in coping with the emergency. This authorization includes the authority to suspend any statute, rule, or order relating to permitting, procurement, and travel. Section 373.119(2), F.S., provides that when an emergency requires immediate action to protect the public health, safety, and welfare, the Executive Director, with concurrence of the Governing Board, may issue an order requiring certain actions be taken to meet the emergency. The order must recite the basis for the emergency and the specific actions deemed necessary by the Executive Director to meet the emergency.

District emergency activities in response to Eta may require re-assignment of staff for various emergency operation functions. District office operations may be slowed, and District staff may not be able to effectively address all Eta-related impacts while at the same time adequately addressing all existing and new permit or variance application review timelines for projects not related to Eta. Additionally, the effects of Tropical Storm Eta may prevent or hinder a permit applicant, permittee, or property owner’s ability to comply with the regulatory statutes, rules, or orders that the District is charged to administer and enforce.

As a result of the foregoing, and pursuant to the authority provided by EOs 20-277 and 20-278, the District’s Executive Director entered Emergency Order No. SWF 20-047 suspending certain permitting, procurement, and travel provisions contained in Chapter 373, F.S., and 40D-2, 40D-4, and 62-330, Florida Administrative Code (“F.A.C.”). A copy of Emergency Order No. SWF 20-047 is attached hereto as Exhibit “A.”

Staff Recommendation

See Exhibits

1. Approve Emergency Order No. SWF 20-047 and concur with the Executive Director’s determinations regarding the state of emergency and the actions necessary to meet the emergency.

Presenter: Christopher A. Tumminia, Staff Attorney