

FORESIGHT



National Oceanic & Atmospheric Administration/Department of Commerce

FOCUS ON THE LEGISLATURE

THE 2003 LEGISLATIVE SESSION

BY SENATOR TOM LEE



SENATOR LEE CHAIRS THE
POWERFUL SENATE RULES
COMMITTEE.

Looking towards the 2003 Legislative Session, funding for the constitutional amendments related to education and the medical malpractice issue will likely dominate the session. However, there are a number of growth management issues of interest this year including the Department of State/Department of Community Affairs merger, infrastructure funding, the fiscal impact analysis model, annexation, inadequate school capacity and inconsistency with a comprehensive plan as a basis for denying rezoning requests, redevelopment and the new rehabilitation code, and urban growth boundaries.

DOS/DCA MERGER. Legislation may be proposed this year that would merge most of the programs at the Department of Community Affairs with the Department of State (see page 6). The remaining programs would be reassigned to the Governor's Office or the Department of Environmental Protection.

INFRASTRUCTURE FUNDING. The Committee on Comprehensive Planning completed an interim project related to the adequacy of funding and implementation mechanisms for growth management infrastructure. The Legislative Committee on Intergovernmental Relations (LCIR) completed a study of current sources of revenue for infrastructure funding of local governments, patterns of infrastructure spending, and options for addressing local infrastructure needs. The LCIR identified a number

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Foresight is published quarterly by 1000 Friends of Florida, a nonprofit membership organization founded in 1986. 1000 Friends of Florida's mission is to protect and improve Florida's quality of life by advocating responsible planning for the state's population growth.



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2003 LEGISLATIVE PLATFORM

- 1.** Oppose any narrowing of citizen standing or limiting of administrative and judicial remedies available to citizens to challenge land use or environmental permitting decisions.
- 2.** Support maintaining the integrity of state trust funds containing monies dedicated to the purchase of environmentally sensitive lands and the provision of affordable housing.
- 3.** Support increasing coordination between land use planning and water supply planning, including measures to increase the use of water conservation as a water supply alternative.

1000 Friends of Florida Outlines Its Priorities



- 4.** Support the authorization and funding of an Environmental Resource Permitting program for the geographic area with the jurisdiction of the Northwest Florida Water Management District.
- 5.** Support infrastructure funding measures that provide local governments more flexibility in funding key infrastructure needs within urban areas.
- 6.** Support a quicker process to resolve land use and development order challenges by eliminating the role of the Administration Commission in growth management appeals, and substituting a "Land Use Board of Appeals" (LUBA) system, using Oregon as a model.
- 7.** Support legislation that will make the Evaluation and Appraisal Report (EAR) process

more useful and accountable by limiting the time allowed for updating local comprehensive plans. Seek legislation that will end plan amendment processing where a period of more than 24 months have passed without the appropriate EAR based amendments having been successfully adopted. ■

1000 Friends' web site had over 125,000 visitors last year. Check www.1000friendsofflorida.org for the latest information on the 2003 legislative session.

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FROM THE DIRECTOR



Charles G. Pattison

More than twenty years ago, a critical link was established whereby new growth would generate the money to pay for the parks, natural areas, and affordable housing it necessitated. In this time of tight budgets, it will be a challenge to keep this link intact. But breaking the link means either saddling the taxpayers with these costs, or reducing the programs in size or scope; neither is an acceptable result.

In the early 1990s, some hard negotiating by development and environmental interests established the principle that real estate transfer fees or documentary stamp taxes attached to all real estate transactions would

generate funds to buy and protect natural areas that would be impacted as the state continued to grow. Those negotiations resulted in the nationally acclaimed Preservation 2000, and subsequently, the current Florida Forever program, which have generated \$300 million annually to buy land before it is overtaken by development pressure. Housing advocates joined the discussions, negotiating the particulars of the William E. Sadowski Affordable Housing Act, which also uses documentary

Protecting Linkages Between Growth, Land Protection, and Housing

stamp taxes to pay for the affordable housing needed by workers, teachers, families and civil servants serving new development.

All of these programs rely on a steady, secure funding source to meet the pressing needs of our growth-based economy—without it, the planning and certainty needed on an annual basis are lost. These needs continue to mount, as several million acres of natural areas remain to be acquired or protected, and more than 700,000 families throughout Florida are awaiting housing assistance.

Growth in our state continues, and land protection and affordable housing are only two of the most visible needs that new growth generates. Now, however, budget pressures are mounting to use some of these program funds for other worthy programs, such as health care, education, and children and families. These needs must not be used to justify reducing or eliminating the secure revenues that are addressing established priorities negotiated in good faith among development, environmental and housing advocates. 1000 Friends of Florida is working hard to protect these programs this session, and we look forward to adding your voice of support to what is certain to become an ongoing policy debate. ■

SUCCESSFUL COMMUNITIES

Problems with the local comprehensive plan surfaced soon after the St. Joe Company submitted a proposed land use amendment for SummerCamp, a 784-acre, 499-unit resort in eastern Franklin County. The creators of the existing plan for this rural Panhandle county did not envision development anywhere near the scale of SummerCamp. Additionally, because Franklin County's plan had not been updated as required under the Evaluation and Appraisal Report (EAR) process, the plan technically had "expired."

1000 Friends of Florida quickly partnered with the Florida Wildlife Federation, Apalachee Ecological Conservancy and Apalachicola Bay and Riverkeeper to negotiate with St. Joe and Franklin County over the many planning and environmental issues surrounding this project. "We were pleased to bring all the parties to the table to help broker a solution that protects the region's sensitive natural resources," said Charles Pattison, Executive Director of

1000 Friends. Also significant, he noted, was a "compromise" that accomplished "the important goal of providing for significant citizen input into updating the local plan."

To protect water quality in the Alligator Harbor Aquatic Preserve, St. Joe agreed to eliminate a proposed commercial marina, boat ramp and associated facilities; provide only one commercial dock and no more than 10 community piers; allow no private docks; and establish a buoy system to protect seagrass and other nearshore habitats from boater impacts.

Additionally, it will cluster development in upland areas to preserve more than 67 percent of the site as conservation land; prohibit lawns; prohibit the use of fertilizers, herbicides and pesticides; contain all stormwater onsite and treat to Outstanding Florida Water standards; prohibit on-site waste disposal; and provide an offsite Advanced Waste Treatment system and warrant that the discharge effluent is in compliance with all the standards of the Clean Water Act.

To address emergency management concerns, development will be limited seaward of the Category One Hurricane Surge line, and a hurricane preparedness and evacuation plan for all SummerCamp residents will be implemented. Additionally, St. Joe agreed to withdraw its proposal to relocate U.S. Highway 98.

For its part, Franklin County has agreed to update its comprehensive plan through a citizen visioning process. The county also will require St. Joe to prepare a Specific Area Plan and map overlay to guide future development on St. James Island. The updated plan will specify that any future development of 10 acres or more will require an area-wide assessment and analysis of long-term environmental and long term impacts and a specific area plan and map overlay.

The citizen visioning process will address protecting natural and cultural resources, promoting sustainable economic development and emergency management planning, providing adequate public facilities, services and affordable housing, and updating the land use plan and land development regulations where necessary. The process will be facilitated by the Florida State University Department of Urban and Regional Planning and the Florida Conflict Resolution Consortium.

1000 Friends' work on this and other projects in the Florida Panhandle is made possible through the generous support of the Doris Duke Charitable Foundation. ■



St. Joe's proposed SummerCamp community is to be located in the Florida Panhandle.

1000 Friends and Partners Broker Compromise on SummerCamp

Franklin County's visioning process was launched in February.



John Harris

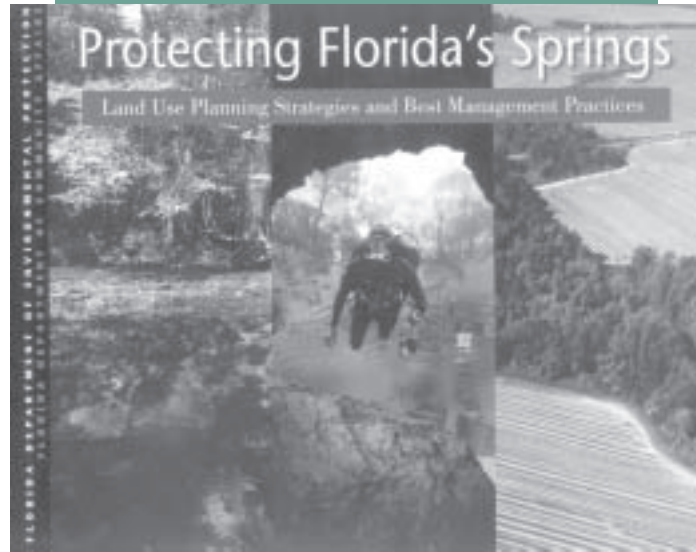
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Friends is working with some of the state's foremost environmental groups to preclude proposals to weaken Florida's water laws. The Florida Water Coalition promotes the principles that water must be clean and safe,

Coalition Formed to Defend Florida Water Laws

remain a public resource, and be managed to protect natural systems. The Water Coalition just released its new briefing book, *Water for Florida's Future: A Call for Leadership*, available at www.1000friendsofflorida.org. In addition to 1000 Friends, the Florida Water Coalition includes Audubon of Florida, Clean Water Network, Defenders of Wildlife, Earthjustice, Florida Conservation Alliance, Florida PIRG, and the Florida Wildlife Federation. ■

Now Available!



The Florida Departments of Environmental Protection and Community Affairs contracted with 1000 Friends of Florida to produce this manual for protecting this state's fragile springs. It outlines land use planning strategies that can be implemented through the local comprehensive plan and land development regulations and other best management practices. This manual is a must for local planners, government officials, and citizens interested in ensuring the health of springs in their community.

View this document at www.1000friendsofflorida.org or call Vicki Morrison at 850.922.1815 to request a copy.

In 2002, the governor-appointed Wekiva River Basin Area Task Force was charged with identifying a route for the final link of a beltway around Orlando that would minimize impacts on the fragile Wekiva ecosystem.

At the request of a coalition of environmental groups, including Friends of the Wekiva, Audubon, Sierra Club, and The Nature Conservancy, 1000 Friends of Florida helped to develop a series of land use recommendations to help protect the Wekiva basin from overdevelopment.

Formally adopted by the Task Force this January, land use recommendations include the creation of a "Wekiva River Springshed Protection Area" to protect the entire

Protecting the Wekiva River Basin

groundwater recharge area, and requirements for comprehensive plans in parts of Lake and Orange counties to limit development on critical recharge areas and identify planning strategies to protect the region's rural character. 1000 Friends continues to work with its environmental partners to draft and shepherd the *Wekiva River Springshed and Groundwater Protection Act* through the 2003 Legislative Session.

According to 1000 Friends' Executive Director Charles Pattison, the Governor's commission brought key stakeholders to the table who hammered out a consensus report and proposed legislation that will give the recommendations the force of law. "We applaud Governor Bush for establishing a process that hopefully will bring resolution to this highly controversial issue," notes Pattison. "This approach could be a model for dealing with other critical issues facing Florida." ■

Keith Schue



LEGISLATIVE UPDATE

On January 21, Governor Jeb Bush released his proposed budget for 2003, in which he outlines the merger of the Florida Department of Community Affairs and Department of State into the new Department of State and Community Partnerships (for more details, see www.ebudget.state.fl.us/priorities/hottopics_dept_state.asp). Former Orlando Mayor Glenda Hood has been tapped to head this new agency. According to the Governor this merger will save \$20.7 million and result in the elimination of 218 positions.

Because DCA currently handles the state's growth management efforts, 1000 Friends is carefully evaluating the proposed merger. While statutory language has been drafted, it has not yet been distributed. On February 14, staff of 1000 Friends and several other groups met with current DCA Secretary Colleen Castille and other staff to discuss the Governor's plans.

While his budget includes a proposed organizational chart for the new department, DCA staff explained that the statutory language to be introduced to the legislature this year would not include organizational specifics; instead the final structure would be left to the discretion of incoming Secretary Hood. It was also indicated that the proposed merger this year is "structural," and that policy changes would follow. Castille indicated that prior to new policy language being introduced, the intent was to hold meetings with interest groups to determine appropriate policy and implementation changes.

Growth Management in Florida at a Crossroad

Governor Bush has indicated that growth management will be a high priority for his second term, and 1000 Friends of Florida applauds his commitment to this vital issue. We agree that Florida's process needs reform, and that important policy refinements must be made to better deal with the many impacts of growth. Over the coming four years, 1000 Friends welcomes the opportunity to work with the Governor and Legislature to refocus the approach to managing growth in our rapidly growing state.

According to the Governor, the merger of the Department of Community Affairs and Department of State is the first step to elevate the status of growth management. If future

Governor Proposes Merger of DCA and DOS

policy direction from the Governor dictates that growth management is a priority of all operating state departments (transportation, environmental protection, education, general services, agriculture, etc.), then the merger could be just the vehicle through which the original promise of growth management can be fulfilled. If, however, future policy direction further minimizes the role of growth management,

limiting it to a narrowing review and enforcement of plans to ensure that they comply with minimum standards, then the merger could help facilitate an ever decreasing role for growth management in this state.

1000 Friends believes that policy changes should drive any reorganization, and not vice versa. Such a merger should only take place if it will result in meaningful improvements to growth management, as outlined below. Therefore, prior to the merger, we recommend that the Governor convene an advisory group of interested parties to fully ensure that citizen, community, natural resource, and development interests are fully represented in this most important undertaking. Any proposal must detail a strong vision for Florida's future, including maintaining or even improving the protection offered for sensitive natural areas, affordable housing, historic resources, and other state assets.

Once appropriate policy changes have been identified and



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statutory language has been drafted to ensure their implementation, 1000 Friends stands ready to support the reorganization needed to elevate the status of growth management in Florida. With this advice, 1000 Friends believes that a new, better growth management program can be realized for the benefit of our citizens, the economy and the environment.

Policy Priorities

Currently, growth management efforts are handled by the Florida Department of Community Affairs, and focus primarily on the review and enforcement of comprehensive plans to ensure that they comply with minimum standards. While 1000 Friends believes that review and enforcement are important tools that must continue to be implemented, we also believe much more is needed.

In order for growth management efforts in this state to be truly effective, growth management should be a priority of all of the state's departments, including transportation, environmental protection, education, general services, agriculture, etc. Such a policy shift would require strong leadership by the Governor and would, once again, place Florida on the cutting edge of efforts to manage growth. We understand that Governor Bush supports the concept of such a policy shift.

We would like to suggest four policy areas for consideration:

■ **Focus and coordinate efforts to protect significant environmental resources, open space and agricultural lands.** State agencies could assist with this goal in a number of ways. For example, the Department of Environmental Protection could better coordinate with water management districts and local governments to purchase sensitive lands, and could partner with the Department of Agriculture on the purchase and transfer of development rights on key agricultural lands. The Department of Transportation could use mitigation funds to assist with land purchases, and be directed not to construct roads that would increase pressure for development in environmentally sensitive areas.

■ **Provide state support for private investment in urban areas.** To accomplish this goal, state funds should favor existing communities, and should not be used to encourage or subsidize new development outside of developed areas. Local governments could be provided with financial incentives to enhance parks, multi-use trails, sidewalk systems, local street networks, libraries, affordable housing and other civic infrastructure that improve livability. The Florida Department of Transportation could be directed to design transportation improvements that are more community sensitive, including sidewalks, landscaping, bike facilities, transit stops and local road connections. The Department of Education could provide incentives to develop and improve facilities within urban areas to become true neighborhood

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LEGISLATIVE UPDATE *CONTINUED*

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schools. The Department of General Services could focus state facilities within urban areas. This would provide a state “support network” for private developers seeking to redevelop and infill urban areas.

■ **Promote better patterns and forms of development and redevelopment within urban areas and at the urban fringe.** Examples would include having the Department of General Services require all state facilities to be better integrated into their communities; having the Department of Education require the development of neighborhoods schools with sidewalks and local road connections; and having policies for the Departments of Transportation and Environmental Protection that would support compact, mixed use forms of development and alternative modes of transportation to minimize the consumption of new land.

■ **Develop a meaningful and relevant state plan.** Underlying the above policy changes is a need for an effective state plan. This plan should identify areas that are appropriate for development, and hence state investment, and delineates sensitive areas that should not be developed. It should focus on protecting and enhancing natural areas, water resources, agricultural lands, historic resources and other state assets. It should identify how community needs, including education, affordable housing, and public safety will be met. It should identify how state policy and prioritization of state dollars can best be used to meet these goals. It also should outline meaningful incentives and technical assistance to assist the private sector in these endeavors. Recognizing the regional scope of many of the issues facing this state, it should encourage partnerships among local governments to solve regional problems. Finally, it should direct that growth pay for itself.

In conjunction with proposed policy changes, 1000 Friends remains committed to upholding citizen participation in the planning process. We firmly believe that in conjunction with any policy changes, citizens must have a strong voice on projects that impact them, are clearly advised of potential impacts of land use decisions, have a quick, easy and fair appeals process, receive protection from developers’ lawsuits and achieve lawyer-free conflict resolution for all land use disputes. ■

American Heritage Rivers Initiative



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The Governor’s 2003 budget calls for the elimination of Florida’s Affordable Housing Trust Funds. Established in the William E. Sadowski Affordable Housing Act of 1992, Florida’s trust fund has been an extraordinary success and stands as a model for the nation. In addition to eliminating the trust funds, so that Florida

would no longer have a dedicated revenue source for affordable housing, the proposed budget also reduces the amount of money for affordable housing by \$94 million. 1000 Friends of Florida initiated the Sadowski Coalition of diverse interest groups that successfully pushed for this dedicated funding, and is now mounting a Coalition effort to preserve the trust funds. For more information, visit our web site at http://www.1000fof.org/Growth_Manage_Process_Revision/2003%20Session/Affordable_Housing_Trust_Fund.htm. ■

Affordable Housing Trust Fund Threatened

To evaluate Florida's growth management process, in 2000 Governor Jeb Bush created the Growth Management Study Commission. In its final report released in 2001 (available at www.dca.state.fl.us/growth), one of the Commission's main recommendations was to create a Fiscal Impact Analysis Model to determine the fiscal cost of new development. The following year, the Florida Legislature appropriated \$500,000 to fund developing such a model, and six pilot communities were selected for testing. This year, additional legislation is anticipated to provide communities with technical assistance to implement the model.

A Fiscal Impact Analysis Model (FIAM) can be a valuable tool to assist communities in determining the cost of development. Its premise is to prevent local government from making land use decisions that will have a negative fiscal impact. However, not taken into account in the

Florida model is the "value" of such community assets as protected natural resources and an adequate amount of affordable housing.

Lee County recently commissioned a study that asks, "What are the public costs of *not* providing affordable housing?" Based on 2002 figures, the study (available at [http://lee-county.com/dcd/AffordableHousing/](http://lee-county.com/dcd/AffordableHousing/HousingMain.htm)

HousingMain.htm) concluded that the shortfall of affordable housing in Lee County costs its citizens over \$249 million annually, a high cost expected to grow as unmet needs increase. Such public costs are the results of lost jobs and wages from not developing affordable housing, lost economic opportunity because families must spend more than they can afford for housing, lost property tax revenue, increased transportation infrastructure and costs when lower-wage workers must travel long distances to employment centers, and social costs associated with education and healthcare.

FIAM can assist communities when making development decisions. However, community values such as natural resource protection and affordable housing also need to be taken into account. For example, affordable housing should be included in the FIAM as a needed infrastructure cost for the community; factored in with a multiplier, or be exempted from evaluation under the FIAM. ■

Affordable Housing and the Fiscal Impact Analysis Model

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of potential options for addressing local infrastructure needs in the following broad categories: non-revenue policy options, revenue policy options, state revenue sources, state water revenue sources, and state transportation revenue sources. The options from the LCIR report, as well as Committee staff recommendations, will be presented for consideration and possible legislation.

FISCAL IMPACT ANALYSIS MODEL.

Another option available for addressing local infrastructure needs involves determining the fiscal impact proposed development will have on local government revenues and services. Hank Fish-

kind and Associates has developed a fiscal impact analysis model that several pilot communities have successfully tested. Some of these pilot communities have already adopted this model for use in their development approval process. There may be some legislation relating to implementation of the model and providing for technical assistance.

ANNEXATION. The Committee on Comprehensive Planning also addressed annexation in an interim project. The report discusses whether current law is adequately addressing the delivery of local government services and other related issues

and conflicts. These conflicts include an increase in the number of enclaves and failure to annex those enclaves, loss of revenue for counties, less effective service delivery, avoidance of more restrictive land use plans or county regulations, and cities' objections to urban



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American Heritage Rivers Initiative

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In December, Tim Jackson of the Orlando planning firm of Glattig Jackson Kercher Anglin Lopez Rinehart, Inc., became the new President of 1000 Friends, succeeding C. Allen Watts. Land use attorney Nancy Stroud of Weiss Serota Helfman Pastoriza & Guedes of Ft. Lauderdale was elected to serve as Vice President, and architect Thaddeus Cohen of Delray Beach was elected Secretary. Stephen Cutright of Tallahassee's Carroll and Company continues to serve as Treasurer.

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1000 Friends of Florida's mission is to protect and improve Florida's quality of life by advocating responsible planning for the state's population growth. Our planners, attorneys, and community activists work to fight urban sprawl, promote sensible development patterns, provide affordable housing, and protect natural areas. Above all, we strive to give citizens the tools they need to keep their communities livable.

THE 2003 LEGISLATIVE SESSION

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preservation districts. Representatives of the cities, counties, and special districts must report to the Legislature by February 1, 2003, on any recommended changes to the annexation statutes. There may be legislation on annexation this year, most likely based on any consensus reached between the cities and counties on the issue.

SCHOOL CAPACITY. Another issue that may be the subject of legislation relates to a recent decision by the Fourth District Court of Appeal and school capacity. In *Mann v. Board of County Commissioners, etc., et al.*, the court held that the county had statutory authority to deny the rezoning of a parcel based on its inconsistency with their comprehensive plan and its requirement that there be "availability and capacity of services and facilities." County staff had recommended against the rezoning because of inadequate school capacity. The Petitioner in this case unsuccessfully argued the county's decision was based on the "Martinez doctrine," referring to former Orange County Chairman Mel Martinez's memorandum to the board indicating staff would recommend denying a request for a map amendment or rezoning if approval would aggravate already overcrowded schools. The court upheld the county's decision, finding it was not based on the former Chairman's initiative but rather that the rezoning was inconsistent with the comprehensive plan.

REDEVELOPMENT AND THE NEW REHABILITATION CODE. Presently, there is little incentive for redevelopment or urban infill. A newly developed rehabilitation code, as an alternative to the Florida Building Code, is scheduled to be approved by the Florida Building Commission this year. The renovation of a building would be subject to this code. In general, the higher the percentage of rehabilitation as it relates to the value of the building, the closer the renovation must come to meeting the standard Florida Building Code.

URBAN GROWTH BOUNDARIES. This issue may surface this year in an attempt to curb sprawl, protect open space, and encourage redevelopment of inner city neighborhoods. Any legislation would probably be aimed at providing local governments with incentives to channel growth into urban areas. This would encourage more orderly growth patterns and reduce the need to continually expand urban services.

These are the key issues related to growth management that may be considered this year. Proposed legislation addressing these issues would, of course, have to balance the interests of local governments, citizens, environmentalists, and the business community. ■

FROM THE CHAIRMAN EMERITUS



Florida is precariously balanced between change and preserving what we have and love. Government, organizations and individuals must ensure that we grow sensibly and equitably. 1000 FRIENDS OF FLORIDA wants to be a part of the solution. We are determined to see Florida's quality of life protected and preserved.

Please use the form below to mail in your contribution. I hope you will support 1000 FRIENDS OF FLORIDA and be a key to Florida's future.

Nathaniel Reed

Nathaniel Reed
Chairman Emeritus, 1000 Friends of Florida



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FORESIGHT

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