

PINELLAS COUNTY RESPONSE

TO THE

March 2009 MUNICIPAL COUNTERPROPOSAL CHANGES to Annexation Process Recommended by Pinellas County for Inclusion in an Interlocal Service Delivery Agreement (September 9, 2009)

The following represents a municipal counterproposal to language initially proposed by Pinellas County and discussed at the February 5, 2009 Interlocal Service Boundary Agreement/Annexation Meeting. Pinellas County's June 2009 responses to the municipal counterproposal are shown in *italics* and County modifications to the counterproposal are noted with strike-through and underline. Additional Pinellas County comments and modifications provided on September 9, 2009 to the municipal counterproposal are highlighted. The last page of this County response is a summary of the changes to Pinellas County's original proposal contained in the March municipal counterproposal.

COUNTERPROPOSAL

1. The annexation provisions in the May 2007 Settlement Agreement shall remain in effect and shall not be superseded by the provisions of this Interlocal Service Boundary Agreement.

Pinellas County supports this section as drafted.

2. Planning Authority for Municipal Service Areas

- a) Any reference to "municipal service area" contemplated in this agreement shall be limited to municipal service areas as defined in section §171.202(11)(a), Florida Statutes.

Pinellas County would add the following subsection:

- b) Any reference to "unincorporated service area" contemplated in this agreement shall be limited to unincorporated service area as defined in section 171.202(16)(a), Florida Statutes.

- ~~b)~~ c) A city, in preparing and adopting its comprehensive plan for the development of land within the city, and amendments thereto, may include its municipal service area within the city's plan in order to advise both the County and the owners of parcels of property therein of the long range planning objectives of the city. However, the city acknowledges that the inclusion in the city's plan of parcels of property within its municipal service area which lie outside the corporate limits of the city shall not be binding on the County or the property owners prior to annexation of such parcels by the city.

Subsection c) is acceptable to Pinellas County with the following clarification at the end of this subsection:

Upon annexation of such parcels, if the city's comprehensive plan provides for residential density that exceeds the maximum permitted by the County comprehensive plan or allows uses not permitted in the County comprehensive plan for the annexed parcels, the city must establish a land use designation for the newly annexed property pursuant to the applicable provisions of Chapter 163, Part II, of the Florida Statutes.

The city may apply a zoning designation only after the parcels have been annexed by the city.

3. Each municipality shall have the ability to annex any and all unincorporated areas contained within its service area pursuant to §171.204, Florida Statutes, regardless of whether the area to be annexed is contiguous as defined in §171.031(11), Florida Statutes, compact as defined in §171.031(12), Florida Statutes or is an enclave or creates an enclave as defined in §171.031(13) & §171.202(2), Florida Statutes. For the purposes of this agreement:
 - a) Any parcels of property located within a municipal service area shall be considered “urban in character”, as defined in §171.031(8), Florida Statutes; and
 - b) Annexation may be achieved by both referendum and non-referendum, or any other methodology approved by Florida Statutes.

Pinellas County supports providing a more flexible process for annexation of enclaves contained within a municipal service area. The municipal counterproposal in this section, however, encompasses all unincorporated areas within a municipal service area, and is not supported by the County. It would also result in further and more pronounced fragmentation of jurisdictional boundaries. Pinellas County would like to work with the other members of the Annexation Workgroup to develop a process for annexation of enclaves that:

- a. provides more procedural flexibility than current law,*
- b. does not exacerbate the problem of fragmented jurisdictional boundaries,*
- c. avoids creating residual unincorporated areas of lower taxable value, and*
- d. considers the rights of unincorporated residents and property owners.*

- ~~4. Each municipality shall identify existing enclaves and unincorporated areas within its service area where municipal services are provided by that municipality. The municipality and County shall set forth an annexation schedule for a mandatory, phased annexation of the identified enclaves and unincorporated areas. The annexations shall then occur by interlocal agreement in accordance with the schedule.~~

While Section 171.205, Florida Statutes, provides a flexible process for securing consent of persons in the area proposed for annexation, it does not permit the mandatory annexation of enclaves and other unincorporated areas as proposed above, except for what is already allowed in Part I of Chapter 171. Therefore, Pinellas County does not support this section.

5. Each municipality pursuing an annexation within its municipal service area, and requiring an Ability to Serve review and recommendation by the Pinellas Planning Council pursuant to Section 5 (13) of the Special Act, shall have the ability to develop one Master Ability to Serve report for its entire municipal service area. The development of one Master Ability to Serve report shall be deemed consistent with the requirements and intent of Section 5 (13) of the Special Act.

Pinellas County supports this section as drafted.

6. Only one legal notice shall be required for a voluntary annexation within a municipal service area rather than two as is currently required by Section 171.044(2) 466.044, Florida Statutes.

Pinellas County supports this section as modified to include the correct statutory reference. .

7. The Interlocal Service Delivery Agreement shall have a 20 year time frame.

Pinellas County supports this section as drafted.

8. A municipality shall send the required certified notice for voluntary annexations to the Pinellas County Planning Department, rather than the Pinellas County Clerk's Office.

Pinellas County supports this section as drafted.

- ~~9. If municipal annexation ordinances are adopted in accordance with the conditions set forth in the Agreement, the County will not challenge administratively, judicially, or otherwise, any annexations by a municipality within its planning area.~~

Pinellas County does not support this section, and would remove it in its entirety. Pinellas County would replace this section with the following:

An appeal of an annexation shall utilize the procedure provided for in section 171.081, Florida Statutes.

10. Annexation by a city shall be limited to unincorporated parcels of property located within the city's municipal service area. A city shall not be permitted to annex property located within the municipal service area of another city established by this agreement.

Pinellas County would add this section.

SUMMARY OF CHANGES

Pinellas County paragraph 1. replaced with the following language:

The annexation provisions in the May 2007 Settlement Agreement shall remain in effect and shall not be superseded by the provisions of this Interlocal Service Boundary Agreement.

Pinellas County paragraphs 2. and 3. replaced with the following language:

Each municipality shall have the ability to annex any and all unincorporated areas contained within its service area pursuant to §171.204, Florida Statutes, regardless of whether the area to be annexed is contiguous as defined in §171.031(11), Florida Statutes, compact as defined in §171.031(12), Florida Statutes or is an enclave or creates an enclave as defined in §171.031(13) & §171.202(2), Florida Statutes. For the purposes of this agreement:

- A) Any parcels of property located within a municipal service area shall be considered “urban in character”, as defined in §171.031(8), Florida Statutes; and B) Annexation may be achieved by both referendum and nonreferendum, or any other methodology approved by Florida Statutes.*

Pinellas County paragraph 4. replaced with the following language:

- A) Any reference to “municipal service area” contemplated in this agreement shall be limited to municipal service areas as defined in section §171.202(11)(a), Florida Statutes.*
- B) A city, in preparing and adopting its comprehensive plan for the development of land within the city, and amendments thereto, may include its municipal service area with the city's plan in order to advise both the County and the owners of parcels of property therein of the long range planning objectives of the city. However, the city acknowledges that the inclusion in the city's plan of parcels of property within its municipal service area which lie outside the corporate limits of the city shall not be binding on the County of the property owners prior to annexation of such parcels by the city.*

Pinellas County paragraph 5. replaced with the following language:

Each municipality pursuing an annexation within its municipal service area, and requiring an Ability to Serve review and recommendation by the Pinellas Planning Council pursuant to Section 5 (13) of the Special Act, shall have the ability to develop one Master Ability to Serve report for its entire municipal service area. The development of one Master Ability to Serve report shall be deemed consistent with the requirements and intent of Section 5 (13) of the Special Act.

Pinellas County paragraphs 6., 7., and 8. remain unchanged.

Pinellas County paragraphs 9., 10., and 11. removed in their entirety.

Municipalities propose new paragraphs 4. and 9.

Each municipality shall identify existing enclaves and unincorporated areas within its service area where municipal services are provided by that municipality. The municipality and County shall set forth an annexation schedule for a mandatory, phased annexation of the identified enclaves and unincorporated areas. The annexations shall then occur by interlocal agreement in accordance with the schedule.

If municipal annexation ordinances are adopted in accordance with the conditions set forth in the Agreement, the County will not challenge administratively, judicially, or otherwise, any annexations by a municipality within its planning area.