

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 (December 3, 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 responses to the municipal counterproposal are shown in *italics* and County modifications to the counterproposal are noted with strike-through and underline. Pinellas County comments and modifications provided since the September 30, 2009 meeting of the Interlocal Service Delivery Agreement/Annexation Workgroup are highlighted.

MUNICIPAL COUNTERPROPOSALS :

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 The annexation provisions in the May 2007 Settlement Agreement shall remain in effect and shall not be superseded by the provisions of this Interlocal Service Boundary Agreement.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 text added at the end of this subsection, which is based on existing Interlocal Agreements between the County and several cities establishing municipal planning areas :

In the event that property within a municipal service area is annexed, the owner(s) may assent to the city's comprehensive plan as it applies to the property(ies) if the city's comprehensive plan provides for intensity of use or density which is equal to or less than the County's comprehensive plan as determined by the Pinellas County Local

Planning Agency, in which case the city's comprehensive plan shall take effect as to the property at the time of annexation and any subsequent public hearing and final amendment action for the property that may be required, including but not limited to any required amendments to the Countywide Future Land Use Plan.

3. Each municipality shall have the ability to annex any and all unincorporated areas contained within an enclave in its municipal 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, or 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;
 - b) Annexation may be achieved by both referendum and non-referendum, and or any other methodology approved by Florida Statutes.
 - c) Enclave is defined as an unincorporated area that is enclosed within and bounded on all sides by a single municipality.
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. Pinellas County would offer the following replacement for Counterproposal #4:

4. The creation of enclaves resulting from the annexation of public right-of-way within a municipal service area may be allowed, when such enclave creation is approved by Pinellas County on a case-by-case basis.

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:

9. 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.~~

The last sentence has been deleted at the request of the cities during the September 30, 2009 meeting of the Workgroup.

December 3, 2009