

Pinellas Park, Florida, January 9, 2006

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held in the Tampa Bay Regional Planning Council Conference Room, Suite 100, 4000 Gateway Centre Boulevard, Pinellas Park at 3:35 P.M. on this date with the following members in attendance:

Alan Bomstein, Chairman
Ricardo Davis, Vice-Chairman
John Bryan, City of St. Petersburg, Councilmember
Karen Burns
James F. Coats, Sheriff
Robert C. Decker
Susan Latvala, County Commissioner
Roger Wilson (attended telephonically)

Late Arrival:

Katie Cole
Roy Harrell

Absent:

George Jirotko
Louis Kwall
Jim Sebesta, State Senator

Also Present:

Susan H. Churuti, County Attorney
James L. Bennett, Chief Assistant County Attorney
Stephen M. Spratt, County Administrator
Kurt Spitzer, KS&A
David P. Healey, Executive Director, Pinellas Planning Council (PPC)
Other interested individuals
MaryAnn Penhale, Deputy Clerk

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AGENDA

1. Welcome
2. Approval of Minutes
3. Review of CRC Status
4. Annexation
 - ✓ Pinellas Planning Council
 - ✓ Discussion of Options
 1. Full Authority for Local Policy
 2. Preservation Areas
 3. Miscellaneous Provisions
 4. Policy on “Non-referendum” Referendums
 - ✓ Consideration of Options
5. Fire Services
 - ✓ Discussion of Options
 1. Single Countywide District
 2. Unincorporated Area District
 3. Authorization for Regional Policy
 4. Abolishment of Independent Districts
 - ✓ Consideration of Options
6. Other Business
7. Adjourn

WELCOME

Chairman Bomstein called the meeting to order.

MINUTES OF THE MEETING OF NOVEMBER 7, 2006 – APPROVED

Chairman Bomstein presented the minutes of the meeting of November 7, 2005, and after receiving no response to a request for corrections, declared the minutes approved as submitted.

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REVIEW OF CRC STATUS

Mr. Spitzer confirmed Mr. Wilson's presence via telephone conference call; whereupon, he related that the last scheduled meeting of the CRC had been cancelled due to the inability to obtain a quorum; that the next meeting is scheduled for January 30; that February 20 has been tentatively set as the date for the following meeting, if one is necessary; that three public hearings separated by at least ten but not more than 20 days are required prior to the submission of recommendations in the final report to the Board of County Commissioners (BCC); that the hearings would probably take place in late May and June; and that the final report to the BCC is due by June 30, 2006. He reviewed voting procedures; indicated that eight votes are required to pass a final recommendation to the BCC; and discussed available options with regard to matters requiring legislative action; whereupon, he noted that nothing would become effective unless adopted by both the legislative delegation and the electorate of Pinellas County.

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At this time, 3:41 P.M., Ms. Cole entered the meeting.

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Mr. Spitzer noted that there are several annexation proposals and three proposals regarding fire service delivery on today's agenda; and that there are five other issues which will need a final vote, possibly on January 30, as follows:

- dual vote requirement
- policies on future CRCs
- reporting of growth and planning information (suggested by Mr. Wilson)
- forum or process for building consensus on policy (suggested by Mr. Harrell)
- authorization to repeal the Pinellas County Charter

Responding to query by Mr. Bryan, Attorney Churuti indicated that she would confirm previous action taken related to the County Administrator's authority in employment matters. In reply to query by Chairman Bomstein, Attorney Churuti discussed the repeal of the Charter issue and the possibility of having a double question on the ballot authorizing the repeal of the Charter, and then repealing and replacing it; whereupon, Mr. Spitzer provided input regarding other Florida counties. Following discussion, Chairman Bomstein confirmed that the matter will be addressed at the next meeting together with other miscellaneous provisions; and in response to a request by Mr. Wilson, indicated

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that the composition of the Commission will be included in the discussion of other topics related to the policy regarding future CRCs.

ANNEXATION

Pinellas Planning Council

Mr. Healey conducted a PowerPoint presentation titled *Annexation in Pinellas County*, and displayed a map of annexation planning areas, copies of which have been filed and made a part of the record.

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At this time, 3:59 P.M., Mr. Harrell entered the meeting.

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Mr. Healey reviewed background and statutory framework regarding annexation matters, including Chapter 171, Florida Statutes, the Countywide Planning Special Act of 1988, Chapter 98-484, Laws of Florida, and Pinellas County Ordinance No. 00-63, and discussed the following statistics:

- voluntary annexations submitted in the past five years
- percentage of voluntary annexations occurring in enclaves
- referendum annexations initiated over the past five years
- countywide future land use classifications regarding referendum annexations

Mr. Healey discussed three annexations by the City of Largo, including the West of 49th Street annexation, noting that the matter had been in litigation; the Ulmerton Road/49th Street annexation involving the Evatone property, with additional input provided by Attorney Churuti; and the 58th Street and Roosevelt Boulevard annexation, which had been challenged by the County regarding complaints that the City of Largo is not annexing the rights-of-way on 58th Street and will create a pocket by the annexation. He referred to the issue of property owners being subjected to a referendum more than once in a short period of time, and cited the examples of two City of Seminole referendums.

Referring to issues and potential solutions, Mr. Healey indicated that the voluntary annexation process is generally working well; and that an annexation subcommittee has been formed consisting of three members each of the PPC and BCC in order to address various issues. With regard to involuntary annexation, he discussed the 30/70 ratio, the

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two-year time limit, advance notice, eligible areas, and the 51/49 ratio of parcels and area regarding non-referendum referendums. Responding to queries by the members, he explained the 30/70 ratio, whereby if 30 percent of the resident electors in the area subject to the annexation vote yes, the entire area would be annexed, including the 70 percent having no registered electors. Referencing the issues of enclaves, incentives, operational transfers, and financial impacts, he recommended that the members review the recommendations of the Pinellas Assembly Annexation Task Force, a copy of which has been filed and made a part of the record; and offered his suggestions regarding the matters of 60-day notification for the first ordinance reading on any involuntary annexation, the need to reach consensus on whether to change the 30/70 ratio, possible adjustment of the time frame within which a referendum could be resubmitted, and areas eligible to be annexed.

Mr. Healey discussed policy choices facing the CRC, including the option to do nothing, the approval of one or more special acts, and the encouragement of consensus building processes through the joint annexation subcommittee. Responding to query by Sheriff Coats, he indicated that an enclave consists of a portion of unincorporated area completely surrounded by a municipality.

In response to Chairman Bomstein's call for persons wishing to speak, the following individuals offered their comments and expressed their concerns:

Jerry Beauchamp, unincorporated area
Arthur Hebert, Largo, President, Oakhurst Neighborhood Association
Betty Bootier, unincorporated area
James Morton
W. C. Snipes, Clearwater (submitted handout document)
Bill Babcock, Evatone
Ray Neri, Lealman

Discussion of Options/Consideration of Options

At the request of Mr. Harrell, Chairman Bomstein reviewed the options for making changes to the annexation process, including requesting the delegation to hear it this year, which would require unanimous approval; waiting until the 2007 session of the legislature to address the special acts, with the matter going on the ballot in 2008; or taking action and bringing the matter to the voters this fall in the general election, subject to ratification by the legislative delegation at their next meeting in 2007.

Discussion ensued regarding the matter of the 30/70 ratio, lengthening the time period for resubmitting an annexation to five years and the possibility of utilizing an interlocal agreement to address the matter, notification procedures, the 51/49 commercial property issue involved in the Evatone matter and the feasibility of utilization of a higher standard,

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and the inclusion of state, county, and government-owned properties in the percentages. Commissioner Latvala stated that inasmuch as legal counsel has determined that an interlocal agreement would not be binding, that option should be removed from consideration; and that before deciding on specific issues, a decision should be made as to the appropriate mechanism to address the matters; whereupon, she suggested that whatever the members decide to adopt regarding the issues should be placed on the ballot for the November 2006 election, with a request for action by the legislative delegation at the next 2007 session. She discussed enclaves, the amount of time between referendums, and notification procedures, with additional input provided by Sheriff Coats and Mr. Wilson, who suggested that the *Summary of Annexation Proposals* included in the backup material be considered for adoption of all or some of the items incorporated therein.

Following discussion regarding preservation areas, Mr. Harrell referenced Commissioner Latvala's suggestion that the members decide on an appropriate mechanism; whereupon, he moved, seconded by Commissioner Latvala, that Option 3 be adopted, which would place the issues on the ballot in the November 2006 election, subject to ratification by the legislature. Upon call for the vote, the motion carried unanimously.

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At the direction of Chairman Bomstein, there being no objection, the meeting was recessed at 5:37 P.M. and reconvened at 6:00 P.M., at which time he indicated that Agenda Item No. 5, Fire Services, would probably not be addressed at tonight's meeting and would be temporarily deferred to the meeting of January 30, 2006.

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Referring to the *Summary of Annexation Proposals*, Chairman Bomstein called for discussion regarding Item No. 1, Full Authority; whereupon, Mr. Wilson expressed support for real home rule as described in Item No. 1; and Mr. Harrell expressed a preference for starting with the "low-hanging fruit." Chairman Bomstein pointed out for clarification that if full authority were adopted, there would be no need to move beyond that to the other issues inasmuch as the other issues could then be undertaken at the County level; and he noted that votes taken tonight would require a simple majority to move forward, which would consist of six of the ten members present.

Following discussion, Mr. Wilson moved, seconded by Commissioner Latvala, that Option No. 1, Full Authority, be approved. In response to query by Mr. Bryan, Mr. Spitzer discussed the matter of setting precedent. Pursuant to additional discussion and

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upon call for the vote, the motion was defeated 4 to 6, with Messrs. Bryan, Harrell, Davis, and Decker, and Mss. Burns and Cole casting the dissenting votes.

Referring to the *Summary of Annexation Proposals*, Mr. Harrell moved approval of Item 3-1, providing for 60-day notification of property owners within the proposed annexation area prior to the first public hearing; whereupon, Mr. Bryan indicated that he would like to change “certified mail” to “mail.” Discussion ensued, with input regarding notification procedures provided by Mr. Spratt and Mark Ely, City of Seminole Senior Planner. Responding to query by Mr. Harrell, Chairman Bomstein indicated that there had not been a second to his motion; whereupon, the motion was seconded by Mr. Davis. Responding to query by Mr. Bryan, Attorney Churuti stated that if notification is sent by certified mail and the addressee refuses the certified mail, it would still indicate that the attempt was made to notify the individual; whereupon, she noted that if the matter is not clear, it will be amended for clarification when the final vote is taken. Responding to query by Mr. Wilson, Attorneys Churuti and Bennett referred to statutory references regarding referendum notification requirements. Following continued deliberations, Mr. Harrell indicated that his motion is to approve Item 3-1 so that those entitled to vote and the property owners shall receive notice. Ms. Burns stated that she would like to amend the motion to include full disclosure; Mr. Harrell indicated that the matter of disclosure is a separate issue; Mr. Spitzer related that the issues should be rolled up together into one annexation recommendation; and Attorney Churuti confirmed that it would be accomplished in that manner when written; whereupon, Ms. Burns withdrew her amendment. Upon call for the vote, the motion passed unanimously.

Mr. Harrell indicated that he would recommend approval of Item 3-3 but with the change of ten years to five years; whereupon, he moved, seconded by Ms. Burns, that Item 3-3 be approved, prohibiting cities from proposing the annexation of property by referendum for a period of five years after the last such referendum, without the property owner’s written consent. Responding to query by Mr. Davis, Attorney Churuti indicated that it would not matter whether the property ownership had changed during the proposed time frame. Discussion ensued regarding the amendment to a five-year time frame versus the ten-year period suggested in the *Summary of Annexation Proposals*; and in response to query by Chairman Bomstein, Mr. Healey indicated that the Pinellas Assembly had not addressed the issue; whereupon, Chairman Bomstein expressed a preference for a seven-year period; and called for the vote for the motion on the floor. Upon call for the vote, the motion failed 5 to 5, with Sheriff Coats, Commissioner Latvala, Chairman Bomstein, and Messrs. Decker and Wilson casting the dissenting votes.

Thereupon, Commissioner Latvala moved, seconded by Mr. Decker, that Item 3-3 be approved for a seven-year time frame. Upon call for the vote, the motion carried 8 to 2, with Messrs. Harrell and Bryan casting the dissenting votes.

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Attorney Churuti referred to Item 3-2 regarding the 30/70 ratio as follows:

“Annexation is prohibited without obtaining consent through a freeholder referendum held on a date certain. In the case of property owned by municipalities, the county, or the state, consent need not be obtained but such property may not count toward satisfaction of the percentage of property owner approval requirements contained in law.”

Following an explanation by Attorney Bennett of statutory provisions regarding the item, Mr. Harrell moved, seconded by Mr. Davis, that Item 3-2 be approved. Following discussion and upon call for the vote, the motion carried unanimously.

Mr. Harrell suggested that the members revisit the disclosure issue at this time; whereupon, Mr. Burns indicated that she would like to include that impacts of proposed annexations be disclosed to the affected parties. Attorney Churuti offered to prepare a draft regarding the matter for the members’ consideration at the next meeting; and Commissioner Latvala discussed the informational brochure prepared by the county. Discussion ensued with regard to when the information should be provided, possible non-economic impacts resulting from annexations, and previous discussion at the legislature as to how public notice should be given, including methods such as the posting of information on websites or by telephone.

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At this time, 6:42 P.M., Commissioner Latvala left the meeting.

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Responding to query by Chairman Bomstein, Ms. Burns indicated that she would concur with incorporating the disclosure issue into Item 3-1, which was approved earlier in the meeting; and upon Chairman Bomstein’s call for a vote, no objections were noted.

Attorney Churuti referred to Item 3-4, “Cities and the county are prohibited from offering any incentives or inducements to property owners in conjunction with an annexation proposal,” and in response to queries by Mr. Harrell, discussed the matters of cash incentives, impact fee waivers, in-kind rewards, tax relief, and improvements to private property; whereupon, she cited the example of a municipality offering to pay for new windows in a condominium; and discussed the need for a public purpose in matters such as paving of streets or reclaimed water on private land. Attorney Bennett indicated that the closing of enclaves represents a public purpose; and Mr. Bryan expressed the need to enforce existing laws.

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At this time, 6:52 P.M., Commissioner Latvala returned to the meeting.

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Discussion continued regarding cash inducements and private property enhancements; and in response to query by Commissioner Latvala, Attorney Churuti explained constitutional language requiring that expenditure of tax levies must serve a public purpose. Following continued deliberations, Attorney Churuti indicated that the language in Item 3-4 could be amended to state “cash incentives or any other incentives that do not qualify for a public purpose.”

Thereupon, Commissioner Latvala moved, seconded by Mr. Davis and carried, that Item 3-4 be approved with the above-mentioned language revision.

Attorney Churuti referred to Item 3-5 regarding annexation of property within enclaves, and explained the theory of incentivizing the closing of very small parcels of unincorporated areas and homogenizing the service areas; and during discussion, noted that the subject wording represents language drafted by the legislature regarding the closing of enclaves. Following discussion, Chairman Bomstein noted consensus to take no action on the item.

Chairman Bomstein referred to Item 4, Non-Referendum Limitations, and noted that it represents an example of the Evatone situation; whereupon, he stated the conditions in the Bomstein provision that 75 percent of the boundary has to be surrounded by the annexing city and or/property owners consenting to the annexation; and added that in retrospect, he believes that 75 percent would be too burdensome; but that the percentage should be more than 50 percent. Mr. Healey indicated that he believed the matter had been addressed with approval of Item 3-2, whereby all the freeholders would vote; and Attorney Churuti provided clarification and indicated that the matter is a separate issue.

Following discussion, Attorney Churuti indicated that the motion would indicate that as applied to non-referendum annexations, that there be one-half of the entire boundary and two-thirds of the people voting; whereupon, Commissioner Latvala moved the aforementioned motion, seconded by Mr. Davis for discussion purposes. Attorney Churuti reviewed the language in Item 4; and in reply to queries by Mr. Harrell, stated that economic development is a public purpose. Deliberations continued regarding issues related to businesses in the county, such as the tax structure and increasing property values, the Evatone situation, and other businesses involved in the annexation effort; whereupon, Chairman Bomstein called the question on the motion to change the 75

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percent on the boundaries to 50 percent, and to change the 75 percent on acreage and number of parcels to 66 percent. Mr. Harrell requested that the members address the proposals separately and not as a single package; and Chairman Bomstein indicated that the matter would not be addressed at the present time, but at a later date as part of the CRC's final decisions.

Upon call for the vote, the motion carried 8 to 2, with Messrs. Harrell and Bryan casting the dissenting votes.

Chairman Bomstein referred to Item 2, Preservation Areas; whereupon, discussion ensued regarding the time period of not greater than ten years for the BCC to formally establish the preservation areas. Mr. Harrell indicated that he would submit a negative motion; whereupon, he moved, seconded by Mr. Bryan, that item 2 not be adopted. Deliberations continued; and Mr. Harrell expressed concern about understanding the possible ramifications of approving the item.

Responding to Chairman Bomstein's call, City of Clearwater Commissioner Bill Johnson, offered his comments and expressed his concerns.

Chairman Bomstein expressed his opinion regarding the preservation area concept and referred to Tierra Verde's wish to establish its independence permanently; and indicated that he feels comfortable that the 7-year hiatus approved earlier addresses the preservation area concept.

Chairman Bomstein clarified that the motion by Mr. Harrell is to take no action relative to preservation areas; whereupon, Ms. Burns seconded the motion. Upon call for the vote, the motion carried 8 to 2, with Commissioner Latvala and Mr. Wilson casting the dissenting votes.

OTHER BUSINESS

Chairman Bomstein indicated that the next meeting will address the fire service issue; whereupon, he referred to a memo from Mr. Spitzer and a letter from attorney Alan Watts, Cobb and Cole, expressing an opinion differing from the previous opinion of the County Attorney that the County would have to pay the various cities and fire districts for their assets if a Countywide fire district were formed, which would result in the Countywide entity starting off with a substantial amount of debt. He noted that Attorney Watts' opinion essentially states that governments do not have to compensate each other in this type of situation; and that the members may want to revisit the issue.

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ADJOURNMENT

At the direction of Chairman Bomstein, there being no objection, the meeting was adjourned at 7:51 P.M.