

CITY OF PINELLAS PARK, FLORIDA

PINELLAS ASSEMBLY MEETING

SEPTEMBER 29, 2003

Meeting was called to order at 5:05 P.M.

PRESENT: Pinellas Assembly Committee Members: Ray Neri, Roger Sellew, Ed Armstrong, Jim Miles, Dan Massaro, David Stone, Staff Member Michael Gustafson and Grady Pridgen (entered Meeting at 6:40 p.m.)

ABSENT: Committee Members: Judy Mitchell, Paul King and Ed Droste

GUESTS: Mark Ely, Charles Attando, Darlene Kaleda, Marc Mariano, Gary Jones, Richard Hough, Gary Schobel, Mike Crawford, Lou Hilton, Kirk Crane, Kevin Bronson, Steve Spratt, Steven Stanton and Gordon Beardslee

Chairman Armstrong stated that Pinellas County Administrator Steve Spratt was in attendance representing the county.

Chairman Armstrong asked for approval of the September 15, 2003 minutes. A motion was made by Committee Member Stone and Seconded by Committee Member Sellew. Mr. Miles abstained as he has had trouble receiving the minutes by e-mail and had not had a chance to read them. Vote was therefore 5 to 1 to approve the minutes.

Chairman Armstrong stated at the last meeting incentives were discussed and at that time the group did not have a clear consensus of what direction, if any, to go in. Chairman Armstrong then asked if any thoughts had crystallized in the interim. Chairman Armstrong was looking for input from the group.

Committee Member Massaro stated from a legal issue, it was his understanding that the issue of incentives is one of definition of what its' purpose is. Mr. Massaro asked if everyone's concern as to whether the incentives are legal or how far the incentives can be promoted depends on an interpretation that somebody needs to make.

Chairman Armstrong stated a judge would need to make that decision and that would be the legal test. The committee is not sitting as appellate judges, but as lay citizens who are trying to offer input into public policy issues. If it is the consensus of the committee that incentives are either appropriate or inappropriate or somewhere in between from a public policy standpoint, the committee would have the ability to make a recommendation to the Mayors Council and the Board of County Commissioners. The committee is not bound by the legal constraints on incentives.

Committee Member Neri thought they should get back to what is the purpose of the incentive and when is it just so pungent to everybody and it just doesn't make sense to use it. There are times when incentives benefit everybody. It seems to be most contentious when it's used in annexations, when there is a problem drawing new people in from other counties, you don't get much resistance. It's when you have the expense of one person to benefit another group; detriment of the other one you are taking the business from is where you seem to have the problem. When you annex through specific ways, usually through incentives, one is enriched for the betterment of the other. Committee Member Neri asked if we know what we don't want, why are we continuing to talk about things that will get us there?

Chairman Armstrong asked Committee Member Neri to elaborate on his comments.

Committee Member Neri stated he thought there had been a consensus of the committee not to want the Broward model and didn't want to see what happened in Jacksonville happen here, all county, all city. As this thing is unfolding, there is a point in the County that you will financially damage to a point where it has to give up its' property and then all of it has to go. There has to be a point, but annexation continues and it is done in a way in which you take out a disproportionate amount of value and if you continue to do that, even if it's slightly, eventually you will come to a breaking point. Mr. Neri asked if this was what the committee was really contending with?

Chairman Armstrong stated he didn't feel anyone would with disagree with that, but was surprised to hear what Mr. Neri's observation was. Chairman Armstrong recalled a unanimous straw vote taken at a previous meeting the committee identified some of the unincorporated areas ought to be protected and not annexed, and that would completely refute the Broward model.

Committee Member Sellew thought the County had a study done as to whether all the property that's within the defined planning zones for each of the existing cities were in fact annexed into the planning zones cities, would the County survive and the answer was yes.

Committee Member Neri stated he understood about the planning lines, but the referendum component which was not bound by those lines was not resolved.

Chairman Armstrong stated the committee had not resolved anything with any level of finality but they did talk about a moratorium for a period of years on annexation by referendum but no decision had been made.

There was some confusion as to what decisions had already been made? Chairman Armstrong clarified that there would be a designated meeting where they will have final binding votes on all the outcomes they are going to recommend and agree upon what the ballot is amongst the group and then cast their votes. Until then the committee has not voted to support anything.

Chairman Armstrong stated with the issue being incentives, would the committee want to take a non-binding straw vote at this time?

Committee Member Miles stated with there being good and bad incentives and a judge being the one to make the decision, he felt the committee was wasting their time discussing the issue.

Chairman Armstrong asked for feedback from the group.

Committee Member Stone stated he had not been convinced one way or the other, which is the strongest argument.

Committee Member Sellew stated he was willing to vote that financial incentives are not bad and unacceptable in all cases.

Committee Member Massaro stated he is positive on incentives and there is a place for them. Mr. Massaro stated he thinks there is a required definition for the public use legal side of it.

Committee Member Neri stated that incentives that are used to attract businesses to Pinellas County or cities use it to attract business to Pinellas County and it is a good thing. It seems problematic when it gets involved in annexation, because it un-levels the playing field. The city then doesn't seem as attractive on its' own merits and a sense of unfairness is then felt.

Chairman Armstrong stated after listening to the input from the group, they may not be able to put forth a collective statement to be meaningful on the topic of incentives. The core of it is really a legal issue that is wrapped around a specific set of facts and the committee cannot judge every set of facts. Chairman Armstrong stated out of the amount of time that has been spent, he didn't think it was productive to spend a lot more time on the issue. The group has the ability to take a pass on an issue.

Mr. Mark Ely stated that most of the research he had done on incentives and legality of public service dealt with bond issues. Mr. Ely made a recommendation to have someone come up with guidelines. When there is no standard definition in the statute and no controlling legal authority it is a tough issue.

Committee Member Massaro made a motion and Chairman Armstrong clarified the motion as follows: That the Mayor's Council and Board of County Commissioners ask the legislative delegation to request legislature to define with some level of clarity what a public purpose is, in the context of annexation. A second was made by Mr. Neri. A no-binding straw vote was taken and it was unanimous.

Chairman Armstrong stated he had received a letter from the Pinellas County Sheriff's Department, Chief Deputy Jim Coates, in response to a letter Mr. Steve Stanton had written him and copied to the Sheriff's Office. A copy was handed out for everyone's edification.

Chairman Armstrong stated the tasks that remain for the last three or four meetings are getting to what outcome makes the most sense from a public policy standpoint and what our collective recommendations will be. Correspondence has been received from Pinellas County, from the position of the unincorporated County and input from the City of Largo. Chairman Armstrong stated that there are other municipalities who are involved in the dialogue as well and urge them to participate to have the benefit of their insights as well.

Chairman Armstrong asked Mr. Steve Spratt explaining the big picture issues from the Counties viewpoint, what outcomes are appropriate and why?

Mr. Steve Spratt stated he has followed the work of the task force. Mr. Spratt discussed the planning areas and how complex the issue is. Mr. Spratt then highlighted the major issues. The County has got to encourage municipal unincorporated areas boundaries that promote efficient delivery and services. Mr. Spratt stated with the boundaries that exist today, as a result of annexation history in Pinellas County, that is not what we have. In many cases, there are irregular boundaries that produce inefficient service delivery where there are governments leapfrogging over each other to go in and provide some levels of services. The constant issue the County will raise is do they continue to perpetuate that or do they try and manage toward more efficient boundaries? Mr. Spratt stated he feels they continue to perpetuate inefficient boundaries by creating pockets. Mr. Spratt also stated that inefficient enclaves have to be closed. It makes no sense to have Code Enforcement, road repair crews, Sheriff's services dropping in within it's municipal boundaries when those sources exist right across the street. The County does support the objective of annexing enclaves by a certain date and they were doing that during the last legislative session and where the debate broke down was, what is an enclave and how do you define it? The County also supports the notion that municipality annexing ought to concentrate on infill annexation, in the theme of efficient boundaries rather than having some serpentine extension. In terms of inter-local agreements, the County supports the idea of cities and county entering into a variety of inter-local agreements that would support efficient service delivery. If it makes sense, the county is open to transfer of services from one government to another. The County believes there needs to be a board public input as to how annexation occurs. Mr. Spratt addressed the issue of protecting the unincorporated area because the County has heard they just want to save its' jobs and that's why the County opposes annexation. What Mr. Spratt is opposed to is haphazard annexation that makes for inefficient government. Part of an orderly approach to annexation should be the economic consideration and what kind of impact are you making on people as the annexation occurs. If the MSTU is going to be there, it ought to have a reasonable capability to provide services without an inordinate tax burden. The County's concern about incentives is what you're doing rather than building a broader community good, is creating a municipal expense so that a property owner can change hats. The County prefers incentives that capture some value for the entire community. Mr. Spratt briefly discussed properties of metropolitan significance being a consideration in annexation and an issue the County has raised. They believe certain properties that support the entire county region should be left under the control of the county government and not necessarily subject to municipal control.

Mr. Spratt summarized by saying the common thread between the policy positions that the County has brought forward, and the criteria suggestions to improve the determinations of annexation eligibility are all grounded in these theories, which is efficient boundaries, efficient service delivery and making sure there is equitable consideration of all people involved directly and indirectly.

Committee Member Miles stated he liked the planning boundary lines the way they are. The internal bickering within the County municipalities has been cut out. Mr. Miles is not interested in going into any other area around the planning boundary by annexation by referendum. Mr. Miles suggested giving up all the County-wide services and let the Municipalities handle the Municipal services. Then there will peace and serenity.

Mr. Spratt stated that one of the problems he has with planning area boundaries is referendum based annexations are exempted from them and they don't have absolute control over of who goes into what territory. The problem with planning area boundaries is that they don't control annexation but only one kind of annexation. Mr. Spratt asked someone to define what all the county wide services are, because it is regional in some cases.

Chairman Armstrong asked about the draft staff positions from September 15, there was a discussion of a 1998 local enclave bill that talked about a municipality mitigating, on a one time basis, the impacts of any annexation.

Mr. Beardslee explained that it was a special act to get forced annexation of enclaves of one acre or less. One of the things that came out of it was, what forcing annexation in the city that there wouldn't suddenly be all these costs to the property owners so they added some constraints as to what the one time cost such as impact fees could be charged to the property owner that came into the city

Mr. Stanton then spoke and stated it was a complex issue but not so complex that it can't be fixed. Mr. Stanton stated the City of Largo had attempted to develop a mosaic of how a bigger solution can be fashioned to address the issue, which is the heart of the problem. Mr. Stanton wanted to call attention to several things. Mr. Stanton stated that a year or so after the referendum and Mr. Spratt came on board with the County, they presumed from that point forward that the voters didn't understand what the referendum was all about and therefore the planning service boundaries could have been changed ultimately to impact the issue of annexation. Mr. Stanton contended the voters did understand the significance of what they were doing. Both Pinellas Park, the City of Largo, Clearwater, St. Pete and indirectly Pinellas County were very much involved with the agreement prior to the referendum. Mr. Stanton stated that the amount of energy all the cities have put forward on this issue have benefited by the establishment of the planning service areas. Pinellas County's desire to start changing the referendum by reinterpreting what was ultimately developed by establishing a map has led to all the litigation that is being seen. Mr. Stanton summarized a proposal he had put forward at the last meeting that started off with the premise that the most important element of this discussion is adding the predictability and stability to the issues of what ultimately will be a city. Mr. Stanton stated there is a problem of not seeing community input. Mr. Stanton stated the ultimate solution to the problem is to change the pyridine on how we precede the roll of the county and the rolls of the city to reevaluate each respective issue.

Committee Member Neri stated everyone is talking in terms of delivery of service and how much easier it would be if everything was straight and nice but he doesn't hear anyone talking about the people. Do the people have any choice whatsoever or is it totally eliminated because cities have power? Mr. Neri stated people within cities are not emotional about annexation but if you go into the unincorporated areas where they don't want to be annexed, they will gather and fight not to be in. Mr. Neri stated he is not against annexation but is against annexation for those who do not want to be annexed.

Mr. Stanton stated people want to live in the unincorporated area because it's cheaper living in the unincorporated area, not because they're not consuming the service, but they're not made to pay the real cost.

Committee Member Stone asked Mr. Spratt to respond to Mr. Stanton's comments.

Mr. Spratt addressed a couple of points. Mr. Spratt stated that the cost of services has been a constant statement and that somehow unincorporated residents are always paying for what they're receiving in the way of services and cities are subsidizing unincorporated area residents. Mr. Spratt stated that last year he recommended a 30% tax increase to the unincorporated area to deal with that allocation issue. In going through the budget Mr. Spratt had shifted costs over the unincorporated area and they took a significant tax increase. In terms of the cost burden in taxes, a lot of comparisons have been done in the last year with annexation, which showed cities would actually pay more if they stayed in the unincorporated area. It was cost advantageous to go to the city. In terms of planning area boundary lines, Mr. Spratt reminded people the ordinance that enacted the planning area boundaries had an amendatory provision. The ordinance says the lines may be amended from time to time but no more than five years. When it was adopted, it was envisioned that the lines could change. Mr. Spratt asked if the planning areas are so great, why are we all here. Mr. Spratt thinks there is more work to do in terms of managing annexation.

Chairman Armstrong asked Mr. Healey to address the history to how the service area boundaries were initially created.

Committee Member Sellew first asked Mr. Spratt if the residents of enclaves have the right to decide whether they may or may not be annexed. Secondly, Mr. Sellew asked if the members of enclave areas, would it be the County's position that the residents of those enclaves have the right to vote not to be annexed?

Mr. Spratt stated there is a contradiction on philosophy. He stated it is agreed that efficient boundaries is the way to go and public involvement in the decision should be a fact, but if an enclave resident wants to stay an enclave, does that not clash with concept of forcing a time certain closing of enclaves. That is the case where you may have to trigger the overriding policy of what is in the interest of the broader community.

Committee Member Sellew asked Mr. Spratt if that became a basis for recommendation, would he be supportive of having residents lose that choice right.

Mr. Spratt responded by saying, if the residents lost that discretion, they should be offered some incentive or benefit in exchange for losing that right.

Mr. Healey stated planning area boundaries were started with the provisions of the State Law that allowed the municipal home rule charter county to deal with an exclusive process for voluntary annexation. They knew from the start they were dealing with only part of the equation, which may be unfortunate to criticize current process that it doesn't solve the whole problem and we knew it didn't when we started out. Mr. Healey stated they had tried writing the charter language broadly enough to allow it to control all annexations in the event they were ultimately allowed to get an amendment to the State Legislation that would allow them to deal with the other side of the equation referendum. The County attorneys felt that was not appropriate and they had to limit themselves as to what they were allowed under the current legislation. Mr. Healey stated they went through an eighteen month process where they looked at all the information they could gather, inter-local agreements, all the mapping, existing planning areas, community comprehensive plans, water and sewer service areas, fire districts that would give

them some idea of a logical configuration for a given municipal planning and service area. It became a process of trial and error. Preliminary lines were put on a map and discussions held with cities, public works officials and city managers and go back and meet with the county people before they got to what seemed to be representative of those communities that had the ability to annex. All cities don't. Out of twenty-four cities, there are only 13 planning and annexation areas for those thirteen cities that have some potential to annex. In the course of discussing the issue with the Board of County Commissioners and the Planning Council, in what was then the current process, there was a concern of advance notification. The adjoining residents weren't being sufficiently informed of an annexation taking place and no real review of process in place that if the county or resident objected they would have had to file suit within 30 days against the municipality that was annexing and it placed a burden on everyone. They then devised a process whereby all voluntary annexations would be referred to the planning council and do a limited review within the planning area if it was contiguous and reasonably compact, it would go forward without further review. If it wasn't, anyone could ask for a full review which included a review by the planning council and passed on to the Board of County Commissioners. It was set that potentially the planning areas would have to be moved. Two mechanisms were put in the ordinance that preceded the ordinance and the sequence of them is very important to remember and understand to know whether the people knew what they were voting on. The ordinance and the map were in place at least 2 months ahead of the ballot question. Two hundred and fifty thousand mailers, primarily to those unincorporated areas within a planning area or immediately adjacent to as best determined by zip codes, to try and inform people what was on the ballot. The first mechanism was a consideration to be able to move the boundaries. The second mechanism was for the boundary lines to be called for a review at intervals of not more than five years by the Planning Council's recommendation and again to the Board of County Commissioners. It was never anticipated the boundary lines being reconfigured, shrunk or contracted. Those were areas that were determined to be available to the respective cities to accommodate annexation by voluntary means and were looked to them to be the ultimate boundaries of those municipalities. A year and a half later there was an initiative by the Board of County Commissioners to contract the boundary in conjunction with the interests of the Lealman community and the Lealman Fire Distric., to coincide with that special fire district. The understanding and good faith efforts that were used to arrive at those boundaries have resulted in legal challenges. Worrying about the small steps to get to the larger end result as opposed to focusing on the value of the end result and finding better ways to get to that point, would stop the inter-mural quarrelling in the process.

Committee Member Pridgen apologized for coming into the meeting late. Mr. Pridgen stated he had read what Jim Bennett had said about it being illegal for cities to offer incentives and this concerned him. Mr. Pridgen stated sometimes a project won't happen unless you have incentives. The end result is everyone is hurt. For example a billion dollar project, every year the school system gets 8 million dollars, the county gets 8 million dollars, EMS gets a million, Fire gets a million and that city gets 5 to 7 million, so everybody benefits. Mr. Pridgen talked about a residential project and as a result one hundred sixty families able to move into an area in Pinellas County instead of moving to Pasco.

Chairman Armstrong stated the decision of the committee early in the meeting had been not to address incentives at this time.

Committee Member Stone asked to clarify what Mr. Stanton had stated about residents in the unincorporated areas utilize many city services without paying for them. Mr. Spratt counters that argument with the fact that the County charges a 25% surcharge which then passes on to the cities to cover those costs, how do you square those?

Mr. Spratt stated the cities charge the 25% surcharge.

Chairman Armstrong stated they provide services to the resident's unincorporated county and surcharge that resident a 25% surcharge, which is allowed under the statute.

Mr. Stanton stated in the area of sewer, it's a little clearer cut, because all the users of the system are paying for the collective capital of the system. Things that don't have a specific user fee that people use and consume but don't know it and think they are paying for but one is not paying the real cost, but paying a token cost.

Mr. Spratt stated in terms of the primary services in municipal government they generally fall within municipal libraries, fire, parks and recreation and in this case, water and sewer. There are in fact mechanisms to make sure cities do get paid. MSTU folks are taxed separately to contribute toward the municipal library system. There is a separate mileage tax to pay for municipal fire services. They are charged a premium for water and sewer services. In terms of the big numbers there are mechanisms to make sure those payments are made.

Staff Member Gustafson stated that one of the questions that was first brought up by the committee was, what do the Cities believe was fair in this issue and what the cities said to the committee was put the planning boundaries back where they were, since then the committee has gone into such things as: lets change the criteria, make it easier to annex in the enclaves. We can keep on throwing road blocks to make it harder to annex. If that is the idea then that's where you are going to make it harder to annex. But the question is, are the planning boundaries the correct areas to annex at this time and it was Mr. Gustafson's idea as to where the committee was at this time?

Chairman Armstrong stated one of the purposes the committee had talked about for having the moratorium (if that's what the final conclusion is), was to reform the criteria in Ordinance 00-63 from amending planning area boundaries. Chairman Armstrong stated the language could be a lot better and give a lot more clarity to all involved.

Chairman Armstrong stated he would be unable to attend the September 29, 2003 meeting and asked Committee Member Sellev to chair the meeting. Committee Member Miles would also be unable to attend the meeting.

The next meeting will be October 13, 2003. This date could possibly be changed.

ADJOURNMENT

Meeting was adjourned at 7:00 P.M.

Cynthia S. LeVan
Administrative Assistant

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