

CITY OF PINELLAS PARK, FLORIDA

PINELLAS ASSEMBLY MEETING

OCTOBER 27, 2003

Meeting was called to order at 5:12 P.M.

PRESENT: Pinellas Assembly Committee Members: Ray Neri, Roger Sellew, Ed Armstrong, Dan Massaro, Staff Member Michael Gustafson and Staff Member Jake Stowers

ABSENT: Committee Members: Judy Mitchell, Paul King, Ed Droste, David Stone and Grady Pridgen.

GUESTS: Mark Ely, Charles Attando, Richard Hough, Gary Schobel, Steven Stanton, Steve Ross, Gay Gentry, Dave Goodwin, Gina Clayton, Dave Healey and Gordon Beardslee

Chairman Armstrong asked in recognition of the passing of Committee Member Jim Miles that there be a moment of silence.

Chairman Armstrong stated in connection with Mr. Miles, he had spoken with Commissioner Seel who had also spoken with Mayor DiDonato, Head of the Mayors Council, concerning replacement of the seat. Jerry Figurski is the first alternate on the Mayors Council list. Mr. Figurski was unavailable for this meeting but will be looking at the scheduled meeting dates to see if he will be available or not. Mr. Figurski will then let Commissioner Seel know his intent. If Mr. Figurski is not available it would go down the line to the next alternate but at this time the seat is vacant. Any input on this mater should be directed to Commissioner Seel or Mayor DiDonato.

Chairman Armstrong stated he had a suggested change in the minutes of September 29, 2003 and that was on page three, third paragraph from the bottom, which read "no-binding straw vote" and should have read "non-binding" straw vote. It was so noted. Mr. Neri stated he had sent some corrections previously, which had been changed. Chairman Armstrong asked for a motion to approve the minutes. Committee Member Sellew, so moved and a second made by Committee Massaro to approve the minutes of September 29, 2003. Vote to approve the minutes was unanimous.

Chairman Armstrong suggested the committee regroup and figure out collectively where to go from this point. Chairman Armstrong stated over the last few meetings time had been spent getting input from a number of sources involved on all or both sides of the issues. Chairman Armstrong suggested finding out where the group needed to head to try and wrap things up. Time-wise the group would like to wind up in January.

Committee Member Neri stated he didn't think the group knew yet what they didn't know.

Committee Massaro stated he was surprised that with so much input from the county and two cities and not much from the other cities. Mr. Massaro was curious to know if there has been any more response since the last meeting.

Staff Member Gustafson stated the majority of cities that are very active in annexation have come to the meetings and shared their views and sent some e-mails. Those that don't do a lot of annexations or do no annexations haven't participated at all.

Mark Ely stated that Dunedin charges \$300.00 to annex, so they obviously don't have a problem with annexation. Committee Member Massaro confirmed that.

Gina Clayton stated the City of Clearwater has been very happy with Ordinance 00-63 in the way it's operated for them. Ms. Clayton stated the City of Clearwater would like to endorse the system as it currently is, it had worked very well.

Charles Attando stated he wasn't sure that the City of Tarpon Springs had any problem with the annexation process, per-say. Mr. Attando doesn't believe the city is happy with the planning areas boundaries.

Staff Member Gustafson stated when the group started he had come to them as a city to say that the cities were happy with the Ordinance as written, not as amended.

Chairman Armstrong stated they had discussed as a group, recommending restoration of the boundaries.

Committee Member Massaro asked if the group had enough information before them to start making some of the decisions or point them in the right direction? His first thought was that they had not heard from most of the cities, but concurred with Chairman Armstrong that the cities that felt strongly that something should be said have said it.

Dave Goodwin stated that St. Petersburg was a willing participant of Ordinance 00-63 to endorse it as well as adopt it officially. Mr. Goodwin felt the intent of the Ordinance was that the boundaries could only be amended by the cities in agreement with the County.

Chairman Armstrong suggested the group go over some of the concepts they have collectively but tentatively agreed to up to this point.

Committee Member Sellew suggested discussing the straw votes.

Chairman Armstrong stated the first collective straw vote decision was that there were certain unincorporated areas of the County that ought to remain so. They do not contain any municipal service area boundaries, they have an identity, they have a community and those areas ought to be protected.

Staff Member Gustafson stated it had been made clear in the beginning that there would be an area of the unincorporated that would stay unincorporated and would be protected Staff Member Stowers agreed.

Chairman Armstrong stated the committee had discussed enclaves and enclaves in service area boundaries as part of a package solution that the County would not oppose the annexation of enclaves with the planning area boundaries and in fact would be supportive as a part of the package in which the service area boundaries would essentially stay the same for a period of time. One suggestion was five years. Also previously discussed was annexation by referendum which is not limited by the service area boundaries, it's governed by the Florida Statutes. A moratorium was suggested on that, for a window of time as well. The theory being, the cities would work on filling in their boxes, they would not go the referendum process for window of time, where the purpose of having a window of time was so that the effective municipalities in the county could agree upon appropriate criteria for amending service area boundaries.

Mr. Neri agreed with that discussion.

Chairman Armstrong stated the straw vote was 7-1 with Mr. Neri voting against it.

Chairman Armstrong stated the committee had also taken a straw vote that the recommendation that the service area boundaries would be restored to what they were when Ordinance 00-63 was enacted. That passed a well on a straw vote.

Chairman Armstrong stated there had been concern about every municipality wanting to come in and renegotiate with the County.

Chairman Armstrong interjected his personal opinion by stating the committee has grappled for some time the practical difficulties of which cities lines ought to be redrawn and which ones should not. Chairman Armstrong didn't feel they wanted to get into that as a group and suggested a generic recommendation, rather than getting into the appropriateness of the boundary lines.

Chairman Armstrong stated incentives had previously been discussed and the conclusion was to do nothing and get some greater guidance from the legislature in terms of what a public purpose was, which seemed to be the hang-up. Chairman Armstrong didn't feel the group could come to meaningful resolution of what is an appropriate incentive and what is not. There are too many fact specific situations.

No one had any objections to Chairman Armstrong's comments.

Committee Member Neri stated the committee had agreed that certain areas of the County need to be protected. Maybe the committee is working at it the wrong way. They are looking at the cities boundary lines and trying to fit everything else in between it. Maybe the committee ought to look at what areas need to be protected and the rest of it's not their problem.

Committee Member Sellew stated that presently everyone is in an independent Fire District. Everyone lives within an umbrella provided by a Fire District.

Staff Member Stowers explained that there are two different kinds of Fire Districts. An independent taxing district so all the people in that Fire District will pay for that Fire District to function, however, you have to be a resident of that Fire District. The second you are annexed into the city, you now move into that Fire District. The other type of district is dependent, where the residency doesn't matter.

Steve Stanton discussed how the issue of annexation gets complicated when issues of protection and trying to create something in an effort to prevent annexation. Mr. Stanton stated that the whole issue of carving out areas is very misleading.

Committee Member Neri stated it's all in the perception.

Chairman Armstrong stated his personal standpoint when casting his vote on a straw vote was that it is not as much as the financial protection aspect, it was more of self-determination. Chairman Armstrong stated some folks, for whatever reason, right or wrong strongly believe they do not want to live inside any municipality and he respects that self-determination within reason.

Committee Member Neri stated "within reason" means it has to be protected because if the mindset is to, (a) it's the right of cities to grow as big as they can, as their needs arise. Then the county becomes the product of which the cities grow and there is no self determination out there. Mr. Neri stated the people who want to live in the county at this point should be given some area that is protected.

Chairman Armstrong summarized two points. One concern is procedural, that the county did not go through the right process in attempting to amend the service area boundaries. The other practical problem is the criteria for how to decide what amendments to make, it is very difficult. They don't shed light on what should be the basis of enlarging or contracting a service area boundary.

Staff Member Stowers added a third point that the County Commission can't change, only out. They can't contract the line. The cities contend that the Board of County Commissioners didn't have the right to reduce the cities opportunity.

Chairman Armstrong stated a significant issue that the committee did not take a straw vote on but acknowledged it as a major issue and not dealt with in any detail, was properties of metropolitan significance. St. Pete/Clearwater International Airport and how that plays into the discussion.

Committee Member Neri stated when you talk about the airport, the airport services the entire Pinellas County. If it goes into the hands of a city, it's conceivable that a city could do things with it that could hurt other areas of the county. Mr. Neri was not sure what those things could be.

Chairman Armstrong suggested that one of those things could be land use regulations.

Committee Member Neri continued on to say the airport is a thing of value to everyone in Pinellas County, not just the City.

Chairman Armstrong mentioned other facilities such as Booker Creek Preserve and the Waste Energy Plant.

Committee Member's Massaro and Sellew stated they were both in agreement with Committee Member Neri's statement.

Chairman Armstrong also concurred and stated he felt there were a couple of ways to get there using the airport as an example is just not have it as part of the annexation process. The other alternative is to go ahead and allow it to be annexed with an inter-local agreement that maintains all the authority with the unincorporated county. Chairman Armstrong asked Staff Member Stowers if it would make a practical difference?

Staff Member Stowers responded by saying a very large facility would make a practical difference because of the fees cities charge.

Chairman Armstrong stated he thought the airport should be regulated by the county that is the sort of thing that needs special treatment, however, in terms of meeting contiguity requirements to annex other properties that becomes a huge insurmountable barrier, and is not sure that's a fair outcome. Chairman Armstrong stated one suggestion would be to recognize the uniqueness of those facilities of metropolitan significance, while at the same time, agreeing that they shall for purposes of deciding contiguity and compactness (inaudible) municipal properties, only for that purpose, for possible annexing other properties in that general area.

Mr. Ely stated there is a qualitative distinction to be made among the body of County Metropolitan entities. County parks, for example, are different than an airport in terms of franchise fees. It is possible under state law to exempt something from franchise fees, you can't exempt it from utility tax unless it's a church but their ordinance says you exempt public, semi-public uses from franchise fees and they happen to be all churches. You could probably exempt the franchise fees but not the utility fees on the airport, because if you write your franchise fee ordinance the way you want to collect it, in terms of contiguity, it's already written in the state statute that any county park doesn't preclude contiguity. The second rub that comes to that is if one wanted to surround that park and create an enclave, they cannot do that.

Steve Stanton stated that approval for a Chick Filet owned by the airport, is due to be approved, which Mr. Stanton hadn't thought of it being a metropolitan significant facility and wouldn't consider a Howard Johnson Hotel and the Cracker Barrel that will be along Ulmerton Road that's owned by the airport, a metropolitan significant property. That's technically owned by the airport and the Counties position is that the City of Largo should not be annexing the Chick Filet or the Cracker Barrel because each one of those facilities is of metropolitan significance to the County.

Staff Member Stowers responded to Mr. Stanton stating the airport's enterprise fund. The airport and all the land included in the airport is what it is, an enterprise fund. Those lands and those fees go to run the airport, there's no tax dollars put in the airport and if those taxes go to Largo, then they won't be going to the airport. The only way the airport functions is because of all the lease of the land around it, not by the airport.

Mr. Stanton stated that there lies the dilemma that when people leave the Chick Filet and get in an accident, is the City of Largo ultimately or Pinellas Park someday, provide the service, it's not going to be the airport police, so those fees typically are generated because airports and county wide facilities do have impact on cities.

Staff Members Stowers responded to Mr. Stanton and stated if all the non leased land were taken away and went to your city, the airport would have to fold. How would the airport function if it doesn't have the value and tax revenue coming in? The airport is what is owned by the airport.

Chairman Armstrong asked Staff Member Stowers on behalf of the County and Staff Member Gustafson on behalf of the cities to come up with each of their lists of what are properties of metropolitan significance?

Chairman Armstrong asked the group what the conceptual feeling of what the outcome would be?

Committee Member Sellew stated he agreed that the pieces of property discussed were to the greater benefit of Pinellas County.

Chairman Armstrong asked Committee Member Sellew if he agreed that in terms of municipalities deciding whether or not to close annexation parcels, contiguous and compact will be disregarded for those purposes and that prohibition on creating enclaves ought to be exempt (inaudible).

Committee Member Neri stated if the businesses that are allowed to build on that property off set the cost of that property, that reduction of cost affects everybody in the county using that facility. Mr. Neri feels it should stand as it is.

Mr. Healey stated he was unclear whether the group has taken a position about the preference for leaving them unincorporated with certain provisions that they don't count against enclaves and contiguity or whether they would be annexed subject to inter-local agreement that leaves the full authority of the county in place to do with their property what they choose to do from an operational standpoint, a land use standpoint and all the other caveats. Mr. Healey stated that before you make that decision, you understand which facilities they are and how that might work, since leaving significant areas unincorporated might be counter to logical defined boundaries. If you start making exceptions to not only the airport but to the Criminal Justice Complex, to public parks, to other specific facilities, you're going to end up with some of the same gerrymandered and peculiar boundaries that may have other implications in terms of law enforcement and other things that you haven't sorted through. If all of the issues the County may have with their facilities can be managed without affecting the logical configuration of municipal boundaries, that might be a far preferable choice. Mr. Healey wasn't clear as the group discussed it; as to whether the group had already made that determination that they want to carve out the areas. In Mr. Ely's case, he wants to go backwards and carve out what is already there and Mr. Healey thinks that is a gross mistake. Mr. Healey thinks there are some implications beyond just leaving the county facilities to be managed by the county, which everyone agrees is good to do, but how do you do that?

Chairman Armstrong stated the simplest way would be to just not have them be eligible for annexation. The group has not looked at that.

Committee Member Neri stated that he had spoken to Sheriff Rice who was interested in talking with the group and giving his perspective and how the Sheriff's department functions in the County.

Chairman Armstrong stated there is a separate annexation task force dealing with consolidation issues and is sensitive about treading upon their turf. That issue may not be right for this group to discuss. Chairman Armstrong does not feel that this is the venue for that discussion to be had and some sort of resolution hopefully reached.

Committee Member Neri stated the only value it would have is that the group has had discussions about the delivery of service and already talked about getting rid of enclaves and you may be opening Pandora's Box again. Mr. Neri stated police protection within enclaves came up and Sheriff Rice doesn't seem to think there is a problem.

Mr. Healey asked if there was a time certain for phasing out of enclaves?

Chairman Armstrong gave his recollection of a previous straw vote that there would be a five year window as a suggested time frame. Not only would the County not oppose the annexation of enclaves within existing service area boundaries, but they would actively support them.

Staff Member Stowers stated that this goes back to delivery of services, the County concurs that enclaves are not efficient government and suggest they should be closed down on some reasonable time-frame.

Chairman Armstrong stated the focus is service area boundaries and does its proposed change meet the criteria or does it not? The likelihood they are going to agree on this is remote and is there a better way than going through the circuit court system to have an outcome for that theatrical future dispute. Chairman Armstrong stated this is the issue he is trying to frame. The most serious disputes Chairman Armstrong anticipates are amending the service area boundaries and whether changes are appropriate or not on a case by case basis. If the Board of County Commissioners and the Mayor's Council adopt the committee's suggestion about a moratorium for a period of time to try to get a better handle on what the criteria ought to be and some sort of mechanism if there's a deadlock on what the criteria ought to be. If there is some significant dispute and they are in year three of a hypothetical five year window, how will it be figured out what criteria will be going forward somehow to break the dead-lock?

Dave Healey stated with all due respect to both sides of the issue, he is convinced that if the process is to work, however it is reconstructed on whatever terms the task force recommends, that there has to be a neutral objective third party that will be the ultimate arbitrator of not only what the criteria are, how the lines get moved or not, but the issue of challenging individual annexations within the planning area based on the criteria for contiguity and compactness. Rightly or wrongly, when the Board of County Commissioners is attempting to serve the best interest of their unincorporated residents it puts them in an absolutely impossible situation of them being the ultimate judge about, did an annexation comply with each criteria or not. Unless there is at least the opportunity to seek resolution to a different board, agency, task force or hearing officer, unless that ultimate decision rests with the party who has no stake or vested

interest in either side, you are doomed to failure. Mr. Healey urged the task force to look to that mechanism, whatever makes the most sense to them because he is convinced after watching this evolve over two or three years that there are such ingrained positions on both sides that they can't be reconciled in the view of the other fairly without a neutral end decision maker.

Chairman Armstrong stated that was why they were having this discussion which he realized they would not resolve at this meeting and could be picked up again at the next meeting.

In closing the meeting, Chairman Armstrong suggested changing the November 24, meeting to November 17, 2003 due to the Thanksgiving holiday, also, having meetings December 1, and December 8, 2003.

Gordon Beardslee distributed a two page informational sheet on enclaves in Pinellas County.

ADJOURNMENT

Meeting was adjourned at 6:58 P.M.

Cynthia S. LeVan
Administrative Assistant

/csl