

Summary of Discussion
Broward County Charter Review Commission
Land Use Subcommittee
Friday, August 31, 2007- 8:30 AM - 11:30 AM
115 S. Andrews Avenue, Room 430
Fort Lauderdale, FL 33301

Members Present:

Mr. Richard Weiss, Esq., Chair
Ms. Maggie Davidson
Ms. Patricia Good
Mr. Mark Ketcham
Mayor Lori Moseley
Joseph Maus, Esq.
Dr. Irv Rosenbaum

Members Absent:

Commissioner Hayward Benson, Vice Chair

Others Attending

Maite Azcoite, Broward County Attorney's Office
Elliot Auerhahn, Broward County Urban Planning and Redevelopment
Barbara Blake Boy, Assistant Director, Broward County Planning Council
Mayor Scott Brook, Mayor of Coral Springs
Donald Burgess, Broward County, Land Preservation Administrator
Chedley Etienne, Administrative Assistant, CRC
Ellen Feld, Esq, Water Management Districts
Sam Goren, Esq., General Counsel
Yolanda Grooms, Administrative Specialist, CRC
Maria Gross, Assistant Director, CRC
J. Hollingsworth
N. Hollingsworth
Phyllis A. King, Transcriber, PKING Consulting, Inc
Aster Knight, resident, Southwest Ranches
Andrew S. Maurodis, Planning Council Attorney
Joe McLaughlin
Mark Modrieh
Keith Poliakoff
Jan Pushkar
Chris Russo
Neil Schiller
Henry Sniezek, Director, Broward County Planning Council

David Tolces, Esq., General Counsel
Bruce Udolf
Patricia G. West, Executive Director, CRC
Susan Winn
Ray Yarbrough

(A copy of the sign-in sheets identifying those present is filed with the supplemental papers to the summary of this Committee Meeting.)

A meeting of the Broward County Charter Review Land Use Subcommittee "Committee," "Subcommittee," or "LUSC," was held at 8:30 a.m. on Friday, August 31, 2007 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

I. Call to Order/Roll Call

Ms. Good called the meeting to order at 8:35 a.m. The Chair requested roll call by Phyllis A. King, of PKING Consulting, Inc. Upon completion of the roll, the Chair welcomed Maggie Davidson the new Charter Commission member to the subcommittee.

The Chair acknowledged the presence of Henry Sniezek from the Broward County Planning Council and the Planning Council's Attorney, Andrew Maurodis.

II. Approval of Summary of Discussion from 8/17/2007.

A MOTION was made by Ms. Good, SECONDED by Dr. Rosenbaum to approve the Land Use Subcommittee August 17, 2007 Summary of Discussion. The MOTION passed unanimously.

The Chair asked Mr. Goren to briefly review the LUSC proposal.

Mr. Goren: Good morning everyone, in the back of your folders you will see an opinion we rendered on August 22nd which I think would be valuable to take a quick look at. It is opinion 2007-013 which in some great detail describes our analysis of the proposal and provides this Board and subcommittee certain objectives and ideas that they may wish to consider.

As the Chair mentioned, a number of weeks ago the Broward County Planning Council has a collegial body that supported a recommendation to the Charter Review Commission to modify the Broward County Charter, Section 8.05 to essentially provide a mechanism and a vehicle to permit municipalities in Broward County who are having difficulty in connection with streets, roads, and alleys that connect between both municipalities, to have some venue for mediation

and dispute resolution in the context of the Charter Amendment. The proposal as described by Mr. Maurodis during recent discussions was in fact conceptual by the Planning Council. The language was a conceptual view of what should be done and provides a mechanism in some form for dispute resolution. That language was circulated to various governmental agencies and to Cities through the Broward League of Cities.

The Broward League of Cities Board of Directors actually reviewed the matter about a month or so ago at a meeting that I attended. For the record, I am Counsel for the League of Cities. There was some discussion and some review at that time. The end result was that the League of Cities wanted to study the matter further and actually send it to one of its subcommittees for further analysis. The concern was that it drop the language which needs to perhaps be massaged further and re-looked at in some other way.

Our goal and mission as directed by this Chair and this subcommittee, was to look at the issue as proposed and to suggest whether it was legally or lawfully possible to implement such a change or with additional modification that could be made applicable. We looked at a number of different issues; our conclusion is that there were some directional changes in the verbiage proposed. We believe that the proposal could be constitutionally satisfactory. It would be consistent with the Constitution and would permit Broward County to be a source for mediation. The context of this has been modernized between municipalities, where streets, highways and roads connect in between Cities and would not affect roads that are State Highways or Federal Roads that otherwise would be impacted. We looked at the Florida Constitution in particular, under the authority given the Charter Counties, and looked carefully at Chapter 3.16 which governs traffic control devices and various other traffic issues. In connection with that matter, we also reviewed some case decisions that affected the municipalities' rights and responsibilities. We also looked at a section of Florida Law which is called Chapter 164 which is very important. Chapter 164 is a State Statutory provision that suggests when governmental agencies are having a dispute between themselves, that there is a process to be fulfilled before they can sue each other. So in essence what happens is if City A and City B were having an issue together, they could not just sue each other until they go through the process. The process requires essentially a meeting between the head of each governmental agency to try to resolve the dispute. During that resolution have each public body actually physically meet, discuss and exchange views on how to resolve the matter as well. The objective is to try to avoid litigation and try to find a mechanism for resolution.

The language which we are supporting that this Board may wish to consider occurs on page 5 of our opinion, which tracks carefully the proposal from the Broward County Planning Council,

but tightens the language a bit. It actually clarifies that the venue or the location for having mediation occur would be Broward County as opposed to the Planning Council itself. There are some delegations of law issues that we can talk about later, but we try to address that issue in that proposal. We describe essential services for example which is a key issue. Essential being those services that include Fire Rescue, Police, and Utilities, etc., that would need to traverse between two Cities that might have occasion to be affected, if there were a road closure.

Frankly, one of the concerns was not preempting Chapter 164 which is a State process which we cannot change by Charter, and to provide a mechanism that can bring individuals to the table in some legitimate fashion if they were in dispute. That occurs in Section 5 where under the current Charter government in Broward County, the Broward County Commission has ultimate jurisdiction over Land Use Planning and Environmental matters. The consequence is that the plats and land use modifications have ultimate authority at the County Commission level for approval over Cities' jurisdiction.

The objective that we thought would be appropriate was to suggest that in the event that a City optionally – and that was the main issue that Andy discussed with the League of Cities, was it an optional provision. If a City that is allegedly at risk of getting affected were to seek a review, that review would result in having a venue where it could be addressed.

In the provision that we have added in Section 5, related to the fact that the pending Land Use modifications or platting issues with the County would have some control and could be deferred until the Cities at least have a chance to engage in their exchange without changing the alternate under Chapter 164. That in essence is what the language suggests. Obviously, we don't take a position either way in the context of the substances of the documentation, but we believe that the suggested change implements the general consensus of the concept of the Broward County Planning Council. We try to find it best in fashion which can be supported legally and can be looked at more carefully by this subcommittee as well as by the full Board if you so choose.

The Chair asked the subcommittee members if there were any questions for general counsel.

III. Discussion of Proposed Draft Revision to the Broward County Charter Addressing Road Closures:

- A subcommittee member asked Mr. Goren if there is a dispute where the Cities would like to close a road if they would have to go through the Planning Council.

Mr. Goren: That's correct.

- A subcommittee member asked if Mr. Goren could go over the overview a municipality may have in order to have road closures.

Mr. Goren: The suggested language in 8.05 describes the cross-jurisdictional road closure issue; this does not address nor did the Planning Council's recommendation address road closures that were requested by a governmental agency, city or a collegial body within its own City.

- A subcommittee member asked under normal circumstances how a City closes a road.

Mr. Goren: Advertisement, appropriate documentation by resolution or by Ordinance essentially allowing for public hearing and then for a closure.

- It was asked what is done by the County as far as current concerns.

Mr. Goren: There are some different views on that quite frankly, where some local governments believe that they can independently close a road within a municipality by providing appropriate notice under the statute by adopting other resolutions or ordinances and occasionally coming to a conclusion independently. There may be some different views of that – that may require involvement of the County, particularly if it is platted land or, hypothetically, roads referred to in the plat, etc. There is a distinction between an abandonment of right of way and a road closure which is not the same.

Abandonment basically says that you are taking a road off the map completely where it does not exist anymore, whereas with a closure, that road may exist but it may end at a particular location based on a decision of local government to close it somewhere specifically.

- It was asked if paragraph 5 specifically relates to the road that is mentioned or does it relate to roads throughout the municipality.

Mr. Goren: No, the objective was to provide incentive to negotiate on the cities' dispute with regard to that specific closure and that may not be clear enough in the language; that was the objective. There would never be any intention on the part of any entity to bar any future review of language modification.

The Chair asked if there were any further questions or comments. He then moved on to the Roundtable discussion.

a. Roundtable with Scott Brook, Mayor, Coral Springs, Andrew Maurodis, Esq., and Henry Sniezek, Executive Director, Broward County Planning Council.

The Chair recognized Mr. Maurodis.

Mr. Maurodis: This emanated from the Broward County Planning Council as a discussion; the sole purpose of which was to provide an alternative for a City that was affected by an action of another City with regard to a road closing. We provided an administrative remedy to resolve the dispute, and from that emerged a proposed draft concept, just to flush out generally what the idea would be. Mr. Goren, I think correctly stated what his office did with regard to providing the opinion as to the authority to do so, and to provide a re-draft, which was anticipated, because the original document that emanated from the Broward County Planning Council was a conceptual draft. Mr. Goren's re-draft I think is a significant improvement over the conceptual draft and it lays out in more detail the process that was envisioned by the Broward County Planning Council, which was simply to provide an alternative for a municipality affected by a road closure in another municipality, short of litigation, to set an administrative determination as to whether that road closing affected the ability of another City to provide essential services, or affected the ability of citizens in another City to avail themselves of the essential services. Because we all know how interconnected all the public facilities, transit facilities, and roads are in Broward County, we thought that this would be an appropriate option to place before the voters. What I would indicate is that the re-draft by Mr. Goren is consistent in my view with what the Planning Council envisioned, and more of the conceptual draft effectively translates that into Legislation.

Mr. Sniezek: Maybe just to offer the planning rationale for this, my observations are that the Planning Council recognized that this issue has not historically been done very many times. It has not been an issue that many times in the past. I think they recognize as the County builds out, there is a lot of infill and redevelopment. I think the anticipation is that there may be more of these disputes in the future. That is basically a planning reason for why the Planning Council felt this could be a good idea.

- A subcommittee member asked if there was a vote to move this issue forward.

Mr. Sniezek: Yes, there were two votes. The Planning Council has a Charter Review Task Force which is a subcommittee of the Planning Council who voted to move it forward and then the full Planning Council voted to move it forward; there was one vote against it.

- A subcommittee member asked what the Planning Council's role would be.

Mr. Goren: The language actual vests the venue in the County not the Planning Council. The Planning Council's proposal was somewhat unclear as a concept, because one made reference to the Planning Council which is an independent body under the Charter, versus the County itself after reviewing what we believe to be the appropriate case decisions and statutory review. The intended venue would appear to be the County Commission as a source. The County itself as a body, as opposed to the Planning Council who submitted a delegation that we thought was why we invested the authority to do so in the County. So, the answer is that our revision actually changes to some extent with the proposal, but is conceptually consistent with that which is proposed.

- A subcommittee member asked what would be the outcome of the meeting between the Cities. Would the meeting result in a decision or is the County's role to get the 2 bodies together.

Mr. Goren: The objective was to provide an opportunity for an exchange of some meaningful value. The language needs to be further amplified and can be. The end result is that if the parties can't resolve the issue, then the question would become, can the County bind the parties to a conclusion? The answer is no, because under State Statute there is a process provided for them under Chapter 164 that anticipates governmental agencies having issues which would not be abrogated, by virtue of this section of the Charter. It is an interim step in trying to resolve immediate controversy, if it can be resolved without the 164 process.

- It was stated that the proposed proposal is just providing an additional venue.
- It was also asked if the Planning Council is proposing the same.

Mr. Maurodis: My impression would be that the Planning Council had hoped that it would be a binding body.

- It was asked if there would be a legal problem with making the proposal binding.

Mr. Goren: Yes.

- It was asked if the subcommittee would want to put a procedure in the Charter that the County acts as a non-binding mediator to get the parties together to resolve Road Closure issues, etc.

Mr. Brook: I am Mayor Brook from Coral Springs. I had been the Chair of the Planning Council for some time and served on the Planning Council for about 5 ½ years. I find the Planning Council to be a great way of taking a look at some issues that are County-wide or City-wide, or cover more than one City. The Board that I had served on, and the Board I know now, its purpose was a great way to take a look at both sides of an issue, and help make a recommendation to the County as objective as can be. A lot of it is because of the make up the Board; a lot of it is because of the professionalism of the Board, and a lot of it is really just because of the procedures that the Board has in place to really hear all sides of an issue and come up with a – what I felt was a solid non-political recommendation. The opportunity to have a Planning Council possibly act in a mediator type of role, I do not think is an extra layer that could be in the way of City government objectives, but rather a way to potentially help fashion a resolution if there is no resolution between 3 competing Cities regarding an issue.

The Planning Council is made up of many citizens, representatives, and elected officials that cover different areas and were really charged on the Planning Council, not with the objective that you are only looking at, the best interest for your City, but really the best interest of the County. We have to take as much of a global approach as possibly, and I think this is an opportunity as opposed to an obstacle to making that happen.

- It was asked what the difference is from what Broward County currently has in place and with what the statute requiring municipalities to resolve their conflict with one another offers.

Mr. Goren: The statute provides that in the absence of a serious threat to life, health, and safety both the governments have an obligation under the statute to try to resolve that controversy in a fashion which includes exchanges of discussion between manager to manager, or whoever might be at the head of the operational side of the government, as well as having a potential Commissioner or collegial body exchange before litigation can be filed. The objective there is a process under the state statute which is mandatory in the event the litigation is threatened by one government against another.

[Mayor Moseley entered at this time 9:00 a.m.]

b. Discussion of correspondence received from municipalities, e.g. Oakland Park, Dania, Coral Springs, and Pembroke Pines

The Chair opened the floor for public comment.

Public Speaker - Mark Roberts – Southwest Ranches

Mr. Roberts: I am here representing the President's Council of all the homeowners associations in Southwest Ranches. In our meeting that we had about a week and half ago we were concerned about this amendment to the County Charter because we think that it does take away some of our sovereignty as a municipality. Mr. Goren, I do have a question for you. If the town of Southwest Ranches decides that we want to close a road, is there a procedure now with this amendment that we would have to get approval from all of the surrounding municipalities before we continue?

Mr. Goren: No.

Mr. Roberts: It can be continued by the municipality and then if the neighboring municipalities have a problem with it they have to go to the County and request your mediation as far as I understand. Southwest Ranches is a unique town in our County, because of our rural atmosphere. We are surrounded by high density population on all sides except for the west side. We have a lot of pressure on us all the time to increase traffic through our town, and to develop our town. We try to resist it, because we want to preserve our open space rural life style. I understand that there is a process already in place and it has been used once that I know of recently by the state to do this mediation that you discussed; this would be a duplication of that process. Just putting different people in the mediator seat accomplishing the same task, I don't see a need for this and as far as the President's Council is concerned we request that you drop this. Thank you.

Public Speaker – Ray Yarborough – Oakland Park

Mr. Yarborough: Four years ago, the City was paying a traffic engineering firm to develop a City-wide Traffic Calming Study. We also looked at the Traffic Calming Study for our downtown local activity center and have recently hired a fulltime Traffic Planner. We have a very structured traffic calming and street closure ordinance which requires the consideration of the essential services. A City Commission feels that traffic calming, and street closures are essential neighborhood planning issues; after that, recently, our City Commission adopted a resolution opposing this Charter amendment. I want to point out that the County's Tree Preservation Ordinance which applies to every City in the County provides an exemption for Cities which have at least, as stringent a requirement where there is tree preservation.. We would also request that as the proposal goes forward that there is a similar exemption included if this results in Legislation.

Public Speaker – Keith Poliakoff – Southwest Ranches

Mr. Poliakoff: I do not want anyone on the Board to get confused on why this item is before you or why we are here. This relates solely to a dispute between the City of Pembroke Pines and Southwest Ranches over a road closure. That is all this is about; it is about a simple dispute between 2 municipalities. The town closed some local roads; Pembroke Pines had opposition to those road closures and what happened? We entered into a dispute resolution under the Florida Statutory provision and both my City and your City came to terms and entered into an agreement to resolve the issue. This is not a topic that should be a concern of the Planning Council it is already covered in the Florida Statute. There is already a mechanism by which, if a municipality feels wronged by another municipality, they can enter into the mediation with an independent forum and independent body to review it. It should not be turned into a political process before the Planning Council. I don't want anyone here to be confused on why we are here today. Pembroke Pines, after the town closed that road entered into this dispute legislation, what did they do? They went to the Florida Legislature and they said, "Florida Legislature change the Law, we need the law to change so that if a municipality closes a road that affects another municipality put something in the law that would prohibit that". What did the Florida Legislature do? Nothing, they killed the bill. They thought it was a terrible idea, so where the Florida Legislature did act. Pembroke Pines has once again through its Chairman on the Planning issued an amendment to the Broward County Charter to come back to you all and say, we know we didn't get this in the Florida Legislature, but if we can get this locally that would be great. At least, then, we can get even with Southwest Ranches for the road closure. That is all this is about. It is about a dispute between Pembroke Pines and Southwest Ranches. They are trying to throw this in a Charter Amendment that would totally destroy all the hard work that this Board and the Charter Review Committee has done over the past several months. By creating a wrinkle in the process; one which is going to divide the municipalities, and the other which is going to get the Charter amendment denied. We respectfully request that you end this game at this time. It is simply a dispute between Southwest Ranches and Pembroke Pines; we respectfully request that you reject this amendment, Thank you.

- A subcommittee member advised Mr. Poliakoff that this issue is no game, and being considered very seriously by the subcommittee.

Public Speaker – Susan Winn- Southwest Ranches

Ms. Winn: I sit on the Comprehensive Advisory Board as a member, and I am here just as a concerned citizen. Some of my points have been already spoken to but I feel that they are

important enough to reiterate. Earlier as it was stated, this is simply a dispute between Pembroke Pines and Southwest Ranches. Since we chose to become a town of our own, not merging into Pembroke Pines, this is somewhat of a problem and has become a problem for us. This again is not the only time they have attempted to do this; to take control of another municipality. They did it in the Legislature, we were fortunate enough to get wind of it and actually stop it in its tracks. It was felt to be very frivolous and not the best way to go straight ahead and be forward and honest to do it right through the front door so to speak. I have never heard of another municipality dictating or providing purviews under what the other neighboring municipality should adhere to. That's why we have our own elected officials who make decisions, control our future, and of course their direction is taken from their constituents, people who support them, support the ideas and support the betterment for our town to move forward and to become one of the best towns that we can become. This is just purely a control attempt. I grew up as a lobbyist and I have always taken an interest in government. I just cannot think of another example of another town controlling another municipality or township. We live in a democracy, we elected those that we believe would do the best for us and therefore they are responsible for making or breaking our town. We do not elect the people in Pembroke Pines; we do not have anything to do with Pembroke Pines. Why would we want their elected officials to now put demands and restrictions on our town? We have tried to be good neighbors. We went into an agreement with Pembroke Pines and they were unhappy that some of the streets were closed, so we reopened those streets. I thank you very much for time.

Mr. Brook: I believe that going before the Council in the capacity that Mr. Goren has indicated would be appropriate and is truly a great opportunity for resolution. The Charter Review Commission is actually going to be making suggestions that impact the entire County,. That's why I believe you are making these decisions that impact citizens that are outside of your jurisdiction and many of the decisions we make as elected officials. It is appropriate to consider what that impact may be and what those impacts are.

I am here as the Mayor of Coral Springs, I have no interest in taking over Southwest Ranches nor is our city interested in being an obstacle for the City of Oakland Park. Our City looks at things from a regional perspective as I believe the Planning Council does, as well as the Charter Review Commission does and should.

I appreciate the comments that you have made and I am asking you all to consider this as a wonderful opportunity and not an obstacle to possibly get a resolution. Mr. Poliakoff made an interesting comment about politics, there is a negative aspect to politics and there is a positive aspect to politics, per say, it is holding the elected officials accountable in the eyes of the public

and that is one of the reasons I love to be a public servant. I love to be accountable to my residents. I completely understand that I will make some decisions that impact residents within and outside of my community and while my heart and soul will always be with the City of Coral Springs, I look at things in a longer term perspective. If I am going to be hurting so many more people that are just outside my vicinity, I am going to really think twice before I do that because it is at an expense that there is a way to avoid that as an elected official.

I think it is appropriate, so I think this step – you might even have 10 recommendations that are more in favor of the closure or the potential closure than not. It is a matter of really being able to be heard by a diverse body that is looking at things beyond this isolated perspective, and I think that is why it would not harm anybody and can only add to the process. Thank you for your time.

- It was asked how the procedure that is proposed for the Planning Council differs from the State Statute.

Mr. Brook: How I would envision it, I happen to be an attorney and also I do some mediation as well, is you will be able to speak to and hear from members on the Council. You never know what will come from the elected officials and the citizens. We are looking for things that are consistent with the Broward County Land Use Plan. Every City is supposed to be doing that, and I think that Broward County Planning Council has done and will do an excellent job of making sure it is consistent. I think you have this Planning Council for a great purpose, so while you have this mediation opportunity, that mediation is before a mediator. I just think that there are greater opportunities that exist. To go before the Planning Council with the experience that the Planning Council has, and at most you are talking about an extra 4 hours of your time; if you could come up with a resolution that would be great. The worst that could happen is that you don't have a resolution. If you have already done all the preparation for the regular mediation, there should not be that much more preparation that needs to be done to go before the Planning Council to have it heard. Remember this is something that the Planning Council is asking the Charter Review for consideration.

Public Speaker – Aster Knight – Southwest Ranches

Mr. Knight: This dispute began simply; we had a problem with residents in our area – now we had a problem with the traffic through and we closed our roads. Pembroke Pines and Southwest Ranches made an agreement and the next day Pembroke Pines reneged and this

was the smartness of the people. I think this is publicized more than it should be. This can be solved at a local level easily. This is blowing out of portion.

A discussion ensued again regarding the process being non-binding and the impossibility of making it a binding process.

- It was determined by the subcommittee that the process must be non-binding.

Mayor Moseley: I have a question, if the Planning Council is advisory to the County Commission, and the County Commission charges them with the Land Use section that they advised, even if it says the County Commission; the County Commission could delegate it to the Planning Council as the Planning Council rolls with the County Commission, could that possibly happen.

Mr. Goren: Yes, actually there is a section under the Planning Council in the Charter already that says the Planning Council shall perform other functions as prescribed by the County Commission.

Mayor Moseley: I just wanted the group to be clear that it still could mean Planning Council.

Public Speaker – Chris Russo – Southwest Ranches

Chris Russo: My name is Chris Russo and I am the Town Administrator for the town of Southwest Ranches. I think a number of the committee members are thinking of this, this is not a matter for the Broward County Charter. This should not be in the Charter. The concept of dispute resolution and assistance from a higher level of government is certainly there all throughout the country. I think the concept improving upon that is a good one and should be looked into. It is not a matter for the Charter, and that is the point I want to make. You do not need to look any further than your neighboring county of Miami-Dade for which I have much more experience than Broward. I will tell you their Charter does address the issue of control of local roads, and if you research that you will find that it has caused nothing but confusion, litigation between municipalities and the county. Because of some of these issues, some communities have given control of their local roads, some have not, others have challenged it, and others have sued the county. There is a history of litigation and disputes between the County because of that Charter provision. My point is the Charter is not the place. The intentions are good, in terms of dispute resolution. As was said earlier, the elected officials of the communities involved will certainly be held accountable and that is where it should be. It should be within their sovereignty as a municipality and also in regards to planning and its

importance. When it comes to all the issues involved in comprehensive planning in this county, especially from the stand- point of environmental issues, Southwest Ranches has been in the forefront with its preservation and commitment to a rural lifestyle. We are preserving more land in that area than I think any community based on its size. I just want to make that point, I do not think the Charter is the place for this to be dealt with and we will certainly pursue this and fight it if we need to. I do believe you are going to hear from more communities in this County as time goes on if this remains an item, I believe they will have the same feeling I have. Thank you.

- A subcommittee member asked General Counsel if discussion and testimony given at this venue at any future point in time could be used in a dispute action between the 2 parties.

Mr. Goren: Depends on how the actual final language is done by the Review Commission. We frankly took some conceptual language although quite significant in its terms and tried to revise it to reflect our beliefs to what the law says in regard to what can be enforced and legally supportable. In light of that, the answer is yes.

Neil Schiller: Good morning, I am an attorney with Becker and Poliakoff; 3111 Sterling Road, Fort Lauderdale, FL 33312. I am here representing the Town of Southwest Ranches. There have been a lot of comments today, talking generally about the Planning Council. Some alert concerns include: the Planning Council does not directly represent every municipality in this County. We talked about politics, you are appointed; everything here is political. To not talk about politics is to bury your heads in the sand and go about your business. One of the first issues we are worried about is direct representation for all the municipalities. If you are going to subject every municipality to a non-binding procedure, they should all have fair representation on your Council. The intent of the Planning Council was not to resolve disputes; the intent was to act as the County planning agency. In terms of municipalities, I believe the Broward League of Cities has yet to take position on this issue and if you are inclined to take a position, I would think it would be in your best interest to wait to see what the Broward League of Cities has to say. There is probably a reason why they haven't taken a position on this issue yet. Lastly, there are already provisions in the Florida Statutes to allow municipalities to resolve disputes and we don't feel like this amendment is going to do anything more than add another layer of government to the municipalities; we all know there is enough government occurring within our municipalities, our counties and our State today. Thank you.

Bruce Udolf: Good morning, I am an attorney with Berger and Singerman here in Fort Lauderdale. I live at 6010 Volunteer Road in Southwest Ranches. I have lived there for

approximately 3 years and I am new to the area. I had no knowledge of the dispute with the City of Pembroke Pines. I am here as a concerned resident who is interested in protecting their investment in that very wonderful 4 square mile enclave I live in what is called Sunshine Ranches. We are completely surrounded by urban sprawl, and the other leaders have alluded to the need for self determination and local representation. I just want to put it to you all in terms of dollars and cents. Many of my neighbors have expressed concern for the possibility of the expansion of Volunteer Road. If that is made, we would want it to be made by people who have a vested interest in preserving the integrity of this small area. We do not want other people from other parts of the County who do not have a vested interest making that decision. I understand one speaker spoke of having a broad diversity of opinions, but we've seen what happens when you have a diversity of opinions, and people who do not have a vested interest. You get surrounded by the sprawl we have surrounding our particular enclave. We have gone to great lengths to preserve that area; there is a beautiful Equestrian Park that is available to all citizens of our city. It has been there about a year and half now, and we want to keep it that way. There is a horse trail along Volunteer Road, and if someone is going to come up with an idea to widen that road, we want to have a vested interest and say so in it and we are not going to, if that decision is made Countywide. That is our concern and that is why I am here today. Not as a lawyer, I don't practice Land Use law; I'm just here as someone who is interested in the community in which they live and preserving it. Thanks.

Joann Hollingsworth: I live at 4710 SW 199th Avenue in the Town of Southwest Ranches. I just have a couple comments. The main thing is each municipality is an entity in its own within the County of Broward with its own elected officials and lifestyles. Southwest Ranches is a unique green space within in this County with homes on acreage, small family farms and horse farms. Our lifestyles demand constant vigilance of our roads and traffic, and preserving our rural lifestyle for our own safety, and those around us. Sometimes, not always understood by our neighboring communities, their lifestyles are different from ours. This Charter Amendment will not represent my community and it will not represent me as a taxpayer in this County. I really wish you would understand that. You each come from your own entities and we need to support our own; we need to have our elected officials be able to do that. This will not represent me; this will not represent my neighbors, and it will not represent me as a member of this community.

Mayor Brook: I have a question for Mr. Goren, am I correct in understanding that if the Charter Review were to agree this would actually go on the ballot and it would be the citizens of Broward County who would determine whether it is an appropriate amendment or not?

Mr. Goren: That is correct

- A conversation ensued amongst members concerning the language in paragraph 5 of the Charter, and the need for more clarity in that paragraph.

Mr. Maurodis: On behalf of the Planning Council, we would like the entire Board and the public to understand that from attending every Planning meeting and subcommittee meeting in which this was discussed, it is my feeling that the intention was not to threaten anyone. We certainly understand that this is a difficult issue and reasonable people can certainly disagree on this policy, we understand that. I agree that this is a very difficult drafting chore and I think it could continually be refined if it was to go forward. You have to understand that the Planning Council necessarily takes a regional view which is why it was the Broward County Land Use Plan adopted in 1978. The concept was with the increasing population and increasing interdependency of one city with another, that looking to the future, a mechanism to resolve these issues would be good policy.

The concept here was to not to have the County coming in on its own initiative, but to respond when a city or municipality called for it. Not for the County to be a policeman, but to respond when needed. I just wanted to clarify that as the basis for the Planning Council's documents and leave it to the Board to make its determination.

- The Chair closed the hearing to public comments at 9:37am.

Mayor Moseley: I just have a couple of thoughts that I would like to share. Historically, the Planning Council was set up to be a municipal representation to the county. It is to be regional in nature but to provide a direct municipal voice to the County. The County Commissioners select 2 individuals from a municipality and one who isn't. The issue that is being raised by municipalities is, if County Commissioner can select an individual that has a minority point of view in their district. The municipal officials have asked that they be able to give their County Commission names of individuals that they would like to be selected. Some municipalities are represented by more than one County Commissioner, so each would get it. Sometimes it is an issue whether the individual is actually representing their areas. In some cities, you have only one representative, so therefore you get only one bite at the apple. Other municipalities may get more. However you word this, I believe it will go back to the Planning Council, and I am a firm believer that home rule should exist within municipalities. You would be giving the Planning Council authority over 31 cities and only nine municipalities would be represented. It really does concern me, by listening to the specific testimony, that we are getting into an area that I do not

believe is the place of the Charter Review. I would not presume to give an opinion on an issue between two municipalities. I am a firm believer in home rule but that is not my position whether I agree or disagree. There is already a process in place with the State, and I do believe that the Planning Council should not be binding in nature, as it is only an advisory board.

- A subcommittee member agreed with the comments proposed by the Mayor and added the issue of lifestyle is paramount. The member also agreed that by making the Planning Council binding in nature would add an unnecessary layer of bureaucracy to the process. The member did not feel it was necessary for the LUSC to get involved with.
- Another member added that this was not a big enough issue to be included in Charter.
- It was suggested that the current proposal is better than what is currently in place.
- The Chair asked for a Motion to move this item ahead for conceptual recommendation to the full CRC. He proposed that the Charter be amended to provide that the Planning Council act as a non-binding mediator between municipalities.

Mr. Maus MOTIONED to recommend for consideration to CRC to have the Charter language amended, Seconded by Ms. Good.

- A subcommittee member inquired if they had received a response from the League of Cities on this matter.
- It was determined that the League of Cities had not replied but rather referred it to a subcommittee, who would make a decision.
- It was stated by a subcommittee member that the League of Cities does not resume until September 12.
- A conversation ensued concerning the League of Cities.
- A subcommittee member asked if this amendment goes to the CRC, what happens then.
- It was advised that the CRC would vote on the issue, and it required two-thirds of the vote for it to be placed on the ballot. If the voters approve the ballot, then it becomes

part of the Charter.

- Conversation ensued amongst members in regard to the voting procedures of the CRC.
- The Chair asked for a roll call vote on the MOTION.

Motion failed 5 to 1, to have Charter Language amended and presented to the CRC regarding proposed resolution 2007-013.

- There was a 5 minute recess. Meeting reconvened at 10:00 a.m.

IV. Discussion of Protections Related to Parks and Recreation, Open Space

- The Chair stated next order of Business and asked County Staff to introduce themselves for the record.

Pat Young: Good morning, I am an Administrative Manager with Broward County Parks and Recreation Division.

Maître Azcoitia: Maite Azcoitia with the County Attorney's Office.

Donald Burgess: Good morning, I am Donald Burgess, Land Preservation Administrator for the Environmental Protection Department.

- The Chair gave an overview of the topic and stated the general concept is that there could be no commercial development in certain parks. As a result, they must decide whether there needs to be language included in the Charter to include parks and recreation protection.

Maître Azcoitia: With respect to the open space bond program sites, a declaration of Restrictive Covenants is placed against all those sites. It requires that a 4/5 majority vote (8) of the entire County Commission is required in order to change those restrictions. In addition, an issue arose previously before the Land Preservation Board as to what would happens if a Bond Open Space was sought to be used for something else. She stated that Bond Council said 3 things would have to happen: the County Commission would have to make a legislative finding that this property is not proper for its intended use; the County Commission would have to pay back the bond program at today's current market value, and the County Commission would have to make a good faith effort to find an alternative site that could be purchased with bond funds.

- The Chair asked what type of sites she was speaking of.

Maître Azcoitia: Bond Required Sites.

- The Chair asked if there was a restrictive covenant on file with the Committee.

Maître Azcoitia: Yes

- The Chair asked who they ran in favor of.

Maïte Azcoitia: The County.

- A member then asked if the County could change it.

Maïte Azcoitia: With a 4/5 majority vote of the entire County Commission, yes.

- A member then asked where 4/5 is mentioned.

Maïte Azcoitia: In the Declaration of RestrictiveCovenants. In order to amend or release the covenants, you need a 4/5 vote of the entire County Commission.

- The Chair then inquired what is 4/5: of 9.

Maïte Azcoitia: 8.

- A discussion amongst members ensued in regard to the procedures of Restrictive Covenants and the County Commission.
- The Chair asked Ms. Azcoitia where the last 2 requirements contained information regarding the buying of the land at market value and finding an alternative location.

Maïte Azcoitia: Bond Counsell opinion. We asked Bond Counsel given that the voters were promised certain things in the bond documents, what it would take to get one of those properties out. There is a written opinion from me, based on what I received from Bond Counsel. It is in your folders.

- The Chair then asked if there were any questions in regard to the Bond acquired properties. There were no questions.

Maïte Azcoitia: With park properties and urban wilderness sites that were not acquired through the bond program, the Parks and Recreation Advisory Board expressed concern about these properties being put to other uses. The CC went back and approved Restrictive Covenants to be placed on all those properties as well, that it would require 4/5 vote in order to remove them from the parks or urban wilderness inventory. So, they do not have the other protection that goes with bond properties, but they do require the 4/5 vote.

- A member asked if all those covenants have been reported.

Maïte Azcoitia: They are in the process right now, yes.

- A subcommittee member asked if someone were to donate land, would that automatically be given to the parks and Recreation Division.

Maître Azcoitia: That would be part of an agenda item. If it is for park property, what the County Commission approved was a list of parks properties, and the authorizing County Administrator would sign those restrictive covenants. When we receive the property, if it is going to be for park purposes, then item B of the agenda would be to place those restrictions on it.

- The Chair asked General Counsel if the 4/5 vote was really binding.

Mr. Goren: You have the power to change, so you have the power to reduce the number of votes that are required which arguably can be provided for. That's an ordinance.

- A conversation ensued amongst members in regard to the 4/5 vote, and whether that was based on all members being present or not.

Maître Azcoitia: They (County Commissioners) can amend a declaration.

- Members commented that since it was a simple procedure to change the current provision of 4/5 vote, there is no real protection with it.
- It was determined that conveyances can be changed.

Mayor Moseley: To follow that line of thought, would that still mean they would still have to buy it back at the current rate?

- The Chair responded that he wasn't sure where that was coming from, so he could not answer the question.

Maître Azcoitia: It is from Bond Council. It was based on the fiduciary responsibility that the County has to the public and what was promised in the bond documents.

Donald Burgess: One additional level of coverage that I was reminded of by Mr. Auerhahn is that the conservation land sites that have been acquired, those are the ones that have natural communities on them, and some of the green spaces, which ones that have a better component, were also placed. The land use was changed from whatever the original use had been to the Conservation Natural Reservation category and the other green space, open spaces, were changed to Recreation Open Space. Those are just different levels of coverage and protection that have been placed on the sites.

- The Chair then stated he believed some of these were purchased with grants, and wanted to know if any of those Grants come with restrictions, and if so, what they are.

Donald Burgess: That is correct, with Florida Communities Trust; they are very consistent with the Declaration of Restrictive Covenants.

- A member asked are there any properties that the County does not own that has resulted in annexation.

Pat Young: Most of them have been turned over to the cities, one in particular is pending, that's Sunview Park; it hasn't yet been annexed, but we have put a Declaration of Restrictive Covenants on it because once we turn it over to the city, we're telling them they can use it for a park and that is it.

Mayor Moseley: I am confused. I am looking at the 2006 Safe Parks and Land Preservation Bond Program, and my assumption is that these were a total of acres acquired through the bond. When I look at, it says some are obtained by a municipality, some are deeded to municipalities, some are open spaces, and some are conservation land. We don't want to talk about the ones that have nothing to do with municipalities. ; I know all municipalities got land through this that they were going to use for a city hall, a Swim Central Park addition, or a town recreation sports complex addition. Are these the same properties that we are talking about that can't change, even though they are obtained or deeded to municipalities?

Maïte Azcoitia: The ones that were deeded also have Restrictive Covenants running in favor of the County.

Mayor Moseley: My question is, the way the proposal reads, you come before this body that says none of them can change...unless. Is that applied to the ones that are actually deeded to a municipality?

- A conversation ensued between the Chair and Mayor Moseley concerning the specifics of the covenant, and possibly adding another layer to the covenant to reflect her concern.

Mayor Moseley: I have the Miramar Athletic Club, which is where our youth sports team plays. A volunteer group uses that field. We got additional land for more parking....

- The Chair stated that the land for Miramar Athletic Club was given with a Restrictive Covenant on that land that restricted it to park use, so that the city could not use it for another use without County approval.

Maïte Azcoitia: Donna is telling me that for that one in particular, the County actually received Conservation on that property.

Mayor Moseley: What I am trying to say, that it is not a one size fits all. That property is what concerns me, because every time we bring up something, it is different and that is my concern. I agree in conserving open space, but my concern is, I already know 2 exceptions that I brought up and I don't know where half of these sites are. That's the only thing that concerns me, not the thought.

- A member stated they did not see what the problem with that property is.

Mayor Moseley: It's actually part of the city park now, and the city maintains it. So if you are saying, never could it change, I might get open space on another site and you might want to shift it or do something else to it.

- A member stated that you need the ability to move the park to where it is needed. It was suggested to obtain a list of the parks that need protection, rather than adopting an all-encompassing rule.
- A subcommittee member commented that it would be unfair to impose more restrictions on municipal park lands, and then asked if a municipality could change that code without the approval of the County Commission.
- The Chair advised that they would have to go before the County Commission in order to change anything in the code.
- A member asked if you can self-impose a rule and have it irrevocable.
- It was advised by a member that it could be done via Charter.
- It was then asked if the County Commission wanted to do away with the 4/5 votes, would there have to be a public hearing.

Maïte Azcoitia: No.

- Conversation ensued amongst subcommittee members concerning the approach Dade County took in regard to their Parks and Recreation facilities, and the procedures they have in place for amendments.
- A subcommittee member reminded the subcommittee of Commissioner Jacob's suggestion that if there were any changes, the public should be informed of those changes.

Mayor Moseley: If the money was used, when you look at this list, some were used for improvements. Based on that context, it would not involve those monies it would only involve monies for purchase.

- The Chair asked when the County spent money for the bond program to improve the swimming pool, was there a covenant required on that property as well.

Pat Young: Those were part of the Swim Central Challenge Grants, and there were restrictions in the agreement that stated they have to be used for swimming lessons; they have to be heated; there were restrictions in the agreements, but they were intended to provide swim lessons.

Mayor Moseley: That's what concerns me, it is so wide open. It cannot just be the bond money.

- A member suggested adopting a new policy that doesn't revolve around bond money, but rather the land. County open-space is our issue, and there needs to be an overriding policy for County lands.
- The Chair asked what the restrictions would be on land that was obtained for open space.
- It was suggested to protect them from enterprise and development and keep from encroachment and recreational usage.
- The Chair identified 4 possible options for the subcommittee to consider. To either: do nothing; identify Pristine Open Spaces and list them where they cannot be changed without voter approval; no restrictive covenants without voter approval; and no development without voter approval.

- A conversation ensued amongst members regarding the current 4/5 vote rule and the difference amongst pristine open spaces and other parks.
- A member responded that the only issue this subcommittee should be focused on in regard to land designation is a policy for Open Pristine protection and another policy to protect County Parks.
- A subcommittee member asked how they would determine which were County Parks and which were City Parks.

Donald Burgess: The brochures we have given you here were based mostly from the 2000 Safe Parks and Land Preservation Bond Program. We do not have a list. Pat has information on what was previously acquired by the County and are those natural lands or County regional parks.

- A subcommittee member asked for the categories they would use.

Donald Burgess: I think Dr. Rosenbaum is referring to, would be the ones that are currently classified by County Parks as natural areas, even through places like Hillsborough Pinelands. Category 1 would be natural area lands. Urban Wilderness is a more defined area of a natural area. When we are dealing with environmentally sensitive land, an environmentally sensitive land is whatever you define it to be; there is no set definition right now. A natural area is one that has a defined natural community on it, or part thereof. Miramar Pines is considered a natural area, Pine Island Ridge, and Tree Tops Park all have natural areas associated with it. Some of the natural areas, after they are developed, (because the urban wilderness category is so stringent), with the roads and a parking lot, then the urban wilderness area designates this to be placed on by Broward County Commission. There is a separate reference in chapter 25 and half of the County Code with restrictions on those specific areas, but most of those are all natural areas.

- The Chair suggested having a presentation done in order for the subcommittee to understand the process and protocols.
- Another member asked for categorization of which parks or areas are considered pristine and those that are general County Parks by the County Staff, but not Municipal.

Pat Young: If I may just point out one instance, Hampton Pines Park in North Lauderdale is managed by the city of North Lauderdale. Half of the park is owned by the city, half is owned by the County, but the City manages it.

- Conversation ensued amongst members in regard to Ms. Young's comment, and how they should deal with instances such as this.

Mr. Goren: Let's use the benchmark, operated by the city.

Pat Young: Mills Pond Park in Fort Lauderdale is another one. Part is owned by the County and part by the City of Fort Lauderdale, but it is managed by the City. The County owns the conservation area.

- Conversation ensued amongst members in regard to the requirements for change to be done at either of the parks on this list.

Mayor Moseley: From a municipal point of view, if municipalities tax the taxpayers because of the municipality budget cuts, and other activities that are taking place, and we have an agreement with the county to pay to run a park. If it is placed in the Charter, they cannot do anything without a 4/5 vote. If you are going to include that in the same category as an Indian Archaeological site, they are not the same thing. In a municipality's budget, their residents choose not to allocate or do not have the funds to allocate to the park. It would not be by desire with the current budgetary climate that appears not to be changing in relation to property taxes, then you are going to put a municipality in the same class, as you would be putting the County in relation to conservation lands in what might be an active or even progressive park. What I am saying is, they are not the same category. There are many municipalities that take parks from the County because they very much value the land and they choose to have that as part of their budget. You would be giving the County more authority than they might already have on that land. It was an agreement that was reached. I do not place conservation lands in the same category as municipal parks, unless it is done as a sub category 2, which goes back to my original point. We have already heard about the parks that are half-and-half and that is why I was saying do it just as category 1, because when you make a policy statement, it would be an overall policy statement. If you begin to sub categorize it, there are going to be so many nuances that we might not know about when we make policies.

A subcommittee member asked the County Staff if the covenant that is attached to the City requires a 4/5 rule or not.

Maître Azcoitia: If it was bond acquired property that is correct. The County placed the Restrictive Covenants on their portion of the property.

- The Chair stated for the next meeting he wanted the County Staff to furnish the subcommittee with the following:
 1. A list of the County Parks
 2. A list of the County-owned Parks or Park Lands (that would include the ½ and ½)
 3. And what restrictions are on each of those parks
- The Chair then requested a time frame to provide this information.

Pat Young: Perhaps 2 to 4 weeks, is that too long?

- The Chair advised her that the subcommittee was on a short time frame.
- A subcommittee member requested authorization for General Counsel to draft the Charter amendment to establish categories.
 1. The Pristine Lands- in which you would need a referendum in order to change ownership and or use.
 2. Other County parks, classified as anything other than Pristine uses/Open Space, and excluding city (½ and ½) owned parks, would require a 4/5 vote by the County Commission in order to change ownership or use.
- The Chair expressed the need for this amendment to insure what the County already has in place to protect these Parks, by adding in the Charter the requirement of 4/5 votes versus just the majority vote of the County Commission.

Elliot Auerhahn: I want to forecast an issue that will probably arise, so you can look at it in advance. The definition of what is an appropriate use for a park, we are talking about the Category 2 regional parks. Regional parks have Butterfly World; they have ski facilities; they have golf driving ranges, and all of these things for anyone to debate about what commercial recreations are okay for a public park and what crosses the line.

- The Chair commented it would be whatever the deed restriction states. He then requested for the County Staff to provide the panel with information from the deed

restriction as well.

- A subcommittee member suggested the need to draft ballot language for these issues.
- A member suggested the possibility of delineating parks for Category 1, and restricting it to just to the active areas.
- The Chair advised there were several options (excluding ½ and ½ parks):
 1. Time permitting, list County parks in Charter as delineated parks that can only be changed with voter approval, and the remainder parks are listed as other.
 2. State by ordinance, the County Commission has a certain time frame to divide the County Parks into 2 categories, and make that distinction.
 3. State once a park has been delineated, the categories cannot be changed.
- A subcommittee member asked if this would include the county/city co-owned parks

Mr. Auerhahn: If we focus on the regional park system, which is the County's system, we do not get into the issue of ½ and ½ owned parks.

A subcommittee member asked for clarification on whether it would be for park use and/or sale of park land.

A subcommittee member responded that it would both for Pristine, but recommended waiting until finding out what is said in the deed restriction.

Donald Burgess: I just want to clarify the format you want this information in. Was it just a spreadsheet with a list of sites, a list of what's presently in place, or something more of a formal presentation?

The Chair responded that a formal presentation was not needed, just the information itself. Examples of each in a simple format would be fine. He also requested photos or some way of showing what the spaces being discussed look like.

The Chair stated the next meeting will be Monday, September 11th at 8:30am.

MOTION by Mr. Rosenbaum to have General Counsel prepare the amendment in accordance with today's discussion, the MOTION was SECONDED by Mr. Ketcham and the passed unanimously.

V. Where Do We Go From Here

Tabled

VI. Public Comment

Mayor Moseley: Thank you for allowing me to speak during your discussion. It was my pleasure to meet you all.

VII. Adjournment

There being no further discussion or comments the meeting was adjourned at 11:03 am. The minutes of this meeting are recorded on CRC-LUSC CD # 8.31.07 (BCGV CTR).