

**Summary of Discussion**  
**Broward County Charter Review Commission**  
**Land Use Subcommittee**  
**Friday, January 18, 2008- 8:30 AM - 10:30 AM**  
**Broward County Governmental Center**  
**115 S. Andrews Avenue - Room 430**  
**Fort Lauderdale, FL 33301**

**Members Present:**

Richard Weiss, Esq., Chair  
Ms. Maggie Davidson  
Ms. Patricia Good  
Mr. Mark Ketcham  
Joseph Maus, Esq.

**Members Absent:**

Commissioner Hayward Benson, Vice-Chair  
Dr. Irv Rosenbaum

**Others Attending:**

Chris Akagbosu, Director, Growth Management Department  
Maite Azcoitia, Deputy County Attorney  
Barbara Blake Boy, Assistant Director, Broward County Planning Council  
Rhonda Calhoun, Executive Director, Broward League of Cities  
Mayor Joy Cooper, Hallandale Beach  
Chedley Etienne, Administrative Assistant, CRC  
Ellen Feld, Water Management Districts  
Maria Gross, Assistant Director, CRC  
Bob Harbin, Director, Broward County Parks and Recreation Division  
Jacob G. Horowitz, Esq., Assistant General Counsel  
Phyllis A. King, Transcriber, PKING Consulting  
Pamela Madison, Assistant County Administrator  
Sue Olson, Commissioner Aide, District 2  
Commissioner Hazelle Rogers, Vice Chair, CRC  
Peter Ross, Deputy Director, Urban Planning and Redevelopment Department  
Henry Sniezek, Director, Broward County Planning Council  
Patricia G. West, Executive Director, CRC  
Mayor Lois Wexler, Broward County Mayor

(A copy of the sign-in sheets identifying those present is filed with the supplemental papers to the summary of this subcommittee 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, January 18, 2008 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

**I. Call to Order/Roll Call**

The Chair, Richard Weiss, Esq. 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 call, the Chair recognized the presence of a quorum.

**II. Approval of Summary of Discussion for 11/30/2007**

**Ms. Davidson MOTIONED to approve the Land Use Subcommittee Summary of Discussion dated November 2, 2007. Mr. Maus SECONDED and the motion PASSED unanimously.**

Mr. Ketcham advised that he must depart at 10:00 a.m.; he requested the escalation of Agenda Item 4.

The Chair asked the LUSC if there were any objections with addressing Item 4 prior to Item 3. There being no objections, the Chair acknowledged consensus from the subcommittee members.

The Chair gave Mr. Horowitz the floor to provide a brief overview of Item IV.

**IV. Update to Resolution 2008-007 (Broward County Park Reservation) - Memorandum 2008-001 – change in listing of Parks owned by Broward County**

**Mr. Horowitz:** A couple of changes were made to the latest proposal; one was the change that was reflected on the Memorandum that our office sent around. The County Attorney's office uncovered that several of the parks listed were not actually owned by the County, two of them were owned by the State and one of them was co-owned, so we revised the list of the parks just to reflect those changes. In addition, there was also some discussion with the Broward County School Board; they raised a couple of concerns at the County Commission meeting pertaining to co-location. The County Attorney's office actually proposed a few minor changes to the proposal which included – I can specifically show you in subsection A (2) the definition of park purposes. Subsection A (2) under definition of park purposes, the second half of that section was added, *"and facilities ancillary thereto including, but not limited to, cultural, educational, and*

*civic facilities, animal exhibits, habitats, band shells, pavilions, outdoor classrooms, and concessions,”* so this would all now fall within that definition.

The Chair asked the LUSC if there were any objections with the suggested language in item A-(2). There being no response from the subcommittee members, the Chair acknowledged consensus.

**Mr. Horowitz:** The second change is on page 8 in subsection G, this relates to the co-location and uses between the School Board and the County. This actually provides that, *“The operation, maintenance, or title to Regional Parks may be transferred without a referendum to the School Board of Broward County for co-location or shared use purposes; or to a Municipality, provided that the subject park continues to be used for park purposes as described in this article.”* Again, this just provides for the ability for the School Board or Municipality to use the Regional Park areas for the purposes defined in the ordinance without referendum. This essentially ties back to the changes that were made to the definition of park purposes.

**The Chair stated for the record:** *“It is clear that, just because the way this thing is worded that the clause starting with the word provided, applies both to the use by the School Board and Municipalities.”*

**Mr. Horowitz:** That’s my understanding, correct.

- A subcommittee member asked if the School Board is satisfied with the proposal as is.

**Mr. Horowitz:** We received a letter from the School Board today indicating they were comfortable with this proposal.

The Chair advised that Mr. Chris Akagbosu from the School Board was present and asked if he had any comments on the matter.

**Mr. Akagbosu, Director, Growth Management/ Broward County School Board**

**Mr. Akagbosu:** The letter signed by the Superintendent basically states the position of the School district.

The Chair pointed out that there has not been any feedback from the League of Cities. He wished to consider all organizations; however the LUSC will have to do the best with the information and feedback that they have received and move on.

Ms. West asked if the issue would be the same for Municipalities.

The Chair replied that he does not know.

- A subcommittee member asked if the Resolution was sent out to different organizations regarding this issue.
- Another subcommittee member advised that a mass mail out was conducted and the League of Cities was in receipt of the Resolution.

**Ms. Davidson MOTIONED to approve Resolution 2008-007; Mr. Maus SECONDED and the motion PASSED unanimously.**

The Chair thanked Mr. Bob Harbin, staff, and Maite Azcoitia for their help and hard work.

### **III. Discussion of the Broward League of Cities request for Re-Composition of the Broward County Planning Council, with attachments**

**Mr. Horowitz:** This is a proposal put together, drafted, and transmitted by the Broward League of Cities Executive Team. It essentially re-structures the composition of the Broward County Planning Council which currently provides for terms –you will see the main changes are in subsection C; providing for a term to coincide with the term of the appointing Commissioner. These are for the members that are appointed by the Broward County Commission. You will see with respect to the appointment of the elected Municipal Official, said Municipal Official shall be appointed by each Commissioner from a list composed of one (1) Official from each of said Commissioner’s Municipalities; said list to consist of one (1) member of each Municipality’s governing body who is approved by a majority vote of said governing body and forward to each Commissioner. In subsection (B), it essentially now adds five (5) members appointed by the Broward League of Cities, which is the main substance of difference. The Planning Council will be composed of five (5) additional members appointed by the Broward League – whereas now, the members are appointed by the Broward County Commission.

- It was asked if under the current Charter each Commissioner nominates two people to serve on the Planning Council.

**Mr. Horowitz:** Serving concurrent terms with that Commissioner.

- A subcommittee member asked how many members are currently serving on the Planning Council.

The Chair invited Mr. Sniezek to join the subcommittee at the table.

***Mr. Henry Sniezek, Director of the Broward County Planning Council***

**Mr. Sniezek:** The Planning Council has 20 positions, each County Commissioner appoints two (2) members, one (1) must be an Elected Official, one (1) cannot be an Elected Official, and there is a County Commissioner who serves, and a School Board member that serves.

- A subcommittee member confirmed that the proposal under consideration came from the Executive Committee of the League of Cities. The subcommittee member also inquired about their voting structure.

**Mr. Horowitz:** There is the Board of Directors of the Broward League of Cities, and an Executive Committee; they both have separate meetings, they vote separately, they have Bylaws. The Broward League authorized them to take authority on behalf of the League and they essentially came up with this language. The Executive Committee prepared this language; they voted on it and transmitted.

***[Ms. Patricia Good entered at this time 8:45 a.m.]***

- A subcommittee member asked if the proposal had been seen by the members of the Planning Council.

**Mr. Horowitz:** I don't believe the full membership of the Board of Directors has seen it. Rhonda Calhoun is here and she may be able to offer some additional clarification.

***Ms. Rhonda Calhoun, Executive Director, Broward League of Cities***

**Ms. Calhoun:** Based upon conversations with the County Commission back in 2004 and now, that Charter Review Commission had organized and was developed Resolutions, the Executive Committee of the Broward League Cities, which is composed of the President, the First and the Second Vice-President, as well as the Secretary, Treasurer, and Immediate Past President drafted the language; which was then presented to the entire Board of Directors. The Board of Directors is composed of one (1) regular Board member, and two (2) Alternates from each of the Municipalities. This language was passed not only by the Executive Committee but by the entire Board of Directors.

**Mr. Horowitz:** I apologize for the discrepancy. Thank you for the clarification.

- A subcommittee member asked Ms. Calhoun by what vote the language passed.

**Ms. Calhoun:** It was unanimous; even Commissioner Lieberman was there and she voted in favor of it as well.

- A subcommittee member advised, to be fair” that there are emails which have been communicated, that may not agree with Ms. Calhoun’s statement.

**Ms. Calhoun:** I understand that and I have seen emails from only one Commissioner who is a member of the Broward County Planning Council. I have seen none other. I did receive an email from Commissioner Gunzburger yesterday who said that she had seen “*emails.*” I did respond to her, I know it was after 5:00, telling her that I had seen 1 email from 1 of 155 Elected Officials that was not in favor and if she was aware of any others to please make sure that I receive them. That was the only one that I receive from any of the Elected Officials.

**Mr. Horowitz: FOR THE RECORD –** *Our firm also serves as General Counsel for the Broward League of Cities. We do not attend the Executive Committee meetings and had no part in drafting this proposal. I just wanted everyone to be aware.*

The Chair acknowledged the arrival of the Mayor Joy Cooper, President of the Broward League of Cities and invited her to join the subcommittee members and explain why the proposal was made. He also invited Mayor Lois Wexler and others present to participate in the conversation to join them also.

***Mayor Lois Wexler, Broward County***

**Mayor Wexler:** Mr. Chair since part of this conversation took place before I ever became a County Commissioner, I’ve asked Pam Madison, Assistant County Administrator to provide a historical.

***Mayor Joy Cooper, City of Hallandale Beach***

**Mayor Cooper:** Good Morning. Thank you very much and I hope you did receive my correspondence. Again, I want to publicly state my apology for any miscommunications or interpretations. I guess everybody’s human. I actually became President of the Broward League in transition; Lori Moseley had appointed Shelley Eichner who has been intimately involved as a Technical Expert through Growth Management and other issues in the League, and the ball got dropped, but with that said, there are a few issues that have been brought forth

that I just want to clarify. The first thing, there's been a question raised and regretfully it continually gets raised by a particular member, as far as the policies and procedures of the Broward League of Cities.

Every City is a member of The Broward League of Cities. There is a decision process that we go through and it is quite extensive. The Committees are established and they bring forth ideas and suggestions. They are of course brought to the Board of Directors and then they are voted on by the body. In some cases, particular issues, and with this issue actually, when we were going through discussions in Tallahassee this actually was voted on by the general membership at a meeting which is typically not the policy, but since it such a critical issue, it was brought forth to the entire body of the Broward League of Cities at the general membership meeting approximately 2 ½ years ago.

I also wanted to let you know that yes, some suggestions come from the Executive Board, which is the proposal that was brought forth; that is in the form that you received; which are proposed changes presented to the Charter Review Commission; that in fact went, and it mirrors and it has been tweaked with some suggestions from the Broward League of Cities. It was presented to the Board of Directors, and I didn't have the exact meeting dates – that's why Rhonda is sitting to my left if you have questions. We did discuss it; I believe it was at a Fort Lauderdale meeting with the Board of Directors. It was discussed, purposed, and presented, and voted on unanimously by the members of the Board of Directors to move forward. The other occasion where it does get involved, where the Executive Committee does directly make decisions and in this case, they didn't; our policy is it comes through the League. In many cases we have mutual interests that come across our Board and the County actually may suggest something is happening on the County level; which we appreciate, and we end up taking feedback to the Executive Board in a response. We actually ask the County to defer those decisions until we can take it to our full body. I wanted to clarify that for any misconceptions of how the policies and procedures are taking place within the Broward League of Cities.

Now of course with that said, every issue can become controversial and certainly we are in a democracy and everyone can voice their opinions ,but I am here to assure you that any policies and procedures that are adopted by the League of Cities, It's done extremely transparently and it's done as a collective body. Now we're not each individual City; however, we do represent the Broward cities collectively as a whole. We have usually and typically worked, there's always going to be some issues of contention, but we've worked towards this issue and a Resolution that we feel is the correct, agreed upon, and palatable to move forward.

So I hope that clears up any misconceptions about how we represent ourselves and how we collectively come to decisions in a democratic environment.

The other thing we did do, because Cities have had some objections in the past about how we do business., we've actually changed our bylaws, and we actually have three (3) members of each City appointed. There is a direct appointment, there's an Alternate, and a Second Alternate; to ensure that every City is communicated with and that those members reflect the City's desires as well as report back to their mutual Cities. So, in fact every City, basically through those commissions, have a member of five (5), we actually have three (3) members that serve either as Board, an Alternate, or Second Alternate in this Committee. We have been really embracing that concept, I'm very proud that it changed – I helped facilitate that as a matter of fact, as first Vice-President, and worked with Mayor Moseley to resolve some of those issues.

Now, how I've been involved in this issue; I don't know if you recall – I did have a chance to testify to this Committee as a whole. So it's not a totally new surprise that this presentation would come forward. I talked briefly and I will rehash a little bit of the history. I've actually been involved in the League intimately on Growth Management issues for over five (5) years. I've worked on the Growth Management Committee; I've worked on a CRA Committee that worked with CRA issues. I have been intimately involved with growth management issues and legislative policies whether it regards Affordable Housing or Parks. I've worked through that process as a liaison and Chair of the Growth Management Committee for the Comprehensive Planning process.

During those meetings there were many issues that we brought to the table to negotiate collectively as a whole. Many of those issues we certainly resolved. I was extremely proud and I know Mayor Moseley at least entered into her Presidency with the understanding that this was going to be water under the bridge and we were done; with one housekeeping mechanism that had to take place and that was a Charter change that would involve how Planning Council members that represent the cities are appointed.

Going back to where it originated from, I have to stress very clearly that this agreement was reached as a compromise. Five (5) years ago, Broward League of Cities – and this issue has gone through four (4) Presidents and four (4) Mayors. Mayor Wexler is familiar that it has taken a long time and those could be other issues discussed by this Board; as far as continuity with the Mayor, because it's quite difficult. But, four (4) Presidents, four different President Mayors, that we've worked through these issues, in that we've negotiated in good faith with the County.

During that process, we started off with eliminating the Planning Council altogether. One of the issues that the Cities have had is that it created duplication of a long process. I'm not sure that everybody – and if I get too involved in what I've learned about the process, and the planning process – what the original concerns, and I'm not saying that's the proposed one, we're not offering that, but historically we felt the plans should originate in Municipalities. Municipalities all have Planning Departments; they all have Planning Advisory Boards, or local Planning Councils within their communities. Actually, they do go through a DRC which is a very extensive policy procedure where the Developer goes in and works directly with each Municipality on their application. It then goes through a Planning Council within the local Planning Agency through the hearing process. At that point, with their recommendations, which of course are strike recommendations, it goes to the City Commission. At that point it goes and kicks off back to the County; the County sees it through the Planning Council; which is a whole other hearing process. Their staff reviews it, and then the same cycle starts again and then they recommend to the County what their recommendations are and then the County moves on it, then depending on the level of the application process it will kick back up into the State.

Our concerns were a lot of issues; and I'm not just saying general development; every development, whether it be Affordable Housing – this process had become so arduous and so long that the initial concept was the Planning Council truly did not serve other than in an advisory capacity and a duplication of an already long process. So, that's where the negotiation started, with the Cities and the County. It went up to Tallahassee to the point that we lobbied to have it changed. We got very close; it got very contentious that the State was going to consider an actual State option to remove the Planning Council. They were considering it, we were lobbying it, and we came back and we didn't win, it died up there. The next year the same thing happened, we continued on that process with the County Lobbying not to remove the Planning Council. The second round in Tallahassee, after lobbying; there was a goodwill effort. We came back in agreement that we were going to reach some type of compromise; I'm hearing this. I wasn't privy to every single negotiation or every whisper in the ear, or everything that transpired.

***[Hazelle Rogers entered at this time 9:00 a.m.]***

**Mayor Cooper:** But, we came back. We said we want to work out this issue. How can we do it? What is the compromise to make our concerns with the imbalance in the Planning Council that is currently with the process of Appointments?

What happened was we came up with a proposal that was adopted by Resolution of Broward County. There was a Resolution that what would happen and I will say I know even at that time there was at least one very vocal – and I am not sure how many other people at least vocally stressed that they were concerned about this. It did pass and it was supported in good faith and we moved forward on those negotiations, understanding that the City portion of the Planning Council (a citizen's representative and a Municipal representative); that those Municipal Appointments would reflect the Cities. In doing that, we suggested that a pool of Appointments that were selected by each Municipality – and I will use Hallandale for example. Commissioner Gunzburger's district is Hallandale Beach, Hollywood, and Dania. Each City could create a shortlist, which represents their City. Their City views, vision, idea, and direction of what Growth Management needs were in their Municipalities. Now those three people could in fact be selected from – and that was the agreement, that those people would be selected as Appointees to represent the Cities on the Planning Council. That was the concept we proposed in the Resolution.

The other proposal was to add three members to the Planning Council; to balance the actual Appointments, some are Countywide, some are Cities, and some are Municipalities. A good example is like the School Board has membership. We felt that there was some true balance created by adding members. I'm going to preface it. It was supported by the County, we moved forward, and the following year, after Resolution; we had committed to not lobby Tallahassee, not to pursue this issue in any way whatsoever and give it a rest for Growth Management and the Planning Council.

Ironically and no disrespect to the Mayor that's sitting next to me; last year and just so, my frustration and my view on things, it was very interesting; last year during legislation, there was a position taken where the County was lobbying Tallahassee last year. As a matter of fact, they got significant changes to the DRC process and an opportunity to opt out of the State process as far as their overall evaluation and hearing process. Regrettably, we weren't even brought to the table on that issue and we were very frustrated. It goes back to our frustration of cooperative goodwill negotiations, realizing that there are very little unincorporated areas,, and that every Growth Management issue is really local and involves Municipalities. So, that's just a little idea of how frustrating the tactics or what transpires on the State level. I don't want to debate the merits of that issue as certainly there are pros and cons to it, but I wanted to share that frustration. I think it is important from the Broward League's perspective to share it with you, to let you know how important and why this issue is important today.

The issue again, I think this language change that we've proposed before you, does to the extent support our ability to have fair and equitable representation on the Planning Council. Historically, it was establish that way originally in Charter. I discussed that when I was here before and shared with you why it was established that way. I am here if there are any questions. I do want to clarify one thing that changed and certainly people are concerned about it. As President of the Broward League, I am certainly here to say that possibly the language isn't perfect. That's what your Subcommittee could consider and look at. There were changes from the original Resolution to increase the number from 3 to 5. That was a specific change and I am here to say, as a representative of the League; that it was proposed at an Executive Committee meeting and it was presented to our full body at that meeting in Fort Lauderdale. Again, it goes back to the ability to have fair, balanced representation between City and County.

The Chair asked Ms. West if the LUSC has a copy of the original Resolution passed by the County Commission.

Ms. West advised the Chair that there is a copy in the subcommittee member folders; attached to the letter from Mayor Wexler.

**Mayor Cooper:** I asked Rhonda Calhoun to send you information and certainly I have volumes of testimony from way back in 2005.

Ms. West asked if there is something that Ms. Calhoun sent that the subcommittee does not have.

**Ms. Calhoun:** I did not send verbatim transcripts. I do have some copies of them here today of some information that I compiled yesterday. Transcripts of some joint meetings between representatives of the Broward County Commission, the Broward League of Cities, and Broward County staff, as well as a couple of portions of verbatim transcript as to the actual date of adoption January 25, 2005; that particular meeting of some discussions that were held prior to the vote. I do have copies of those – my copy machine was still running as I was coming upstairs. I think I have five (5) of them that I can hand out. I've highlighted the language as to conversations of Mayor Jacobs acknowledging that it was going to be coming before the Charter Review Commission when it did eventually convene; that it was going to be a done deal and it would already be a practice.

**Mayor Cooper:** I just wanted to add in conclusion – and certainly I will be available for questions and rebuttal if I hear something that I believe is not accurate. The one thing that I wanted to share, that I was remiss in sharing as far as historically is why this is important; and I

am going to use my City again as an example. The representative at the time that this had all gone through the process; our particular district representative had continued to put on this Committee an individual that never represented the majority review of our City in any matter. I felt that this was inequitable. As an elected City Official, to have someone on my dais supposedly representing me and the Commission and our Citizens and our residents that was totally not in line with what the City's desires and visions were for the community.

Now, when they argue, I don't like to lose my discretion to appoint my Appointees, I would argue that there are many Boards in fact, that Commissioners may not even have any discretion on because their extremely technical in nature. There are also some Committees that the only advisory position that they can appoint is the one that they have themselves. The one change that was not in clear language was, and we were sensitive to this as well, is diversity in the Appointments. I know that was part of the dialogue and some of the concern. That in fact, in our example, there were three (3) members. If they were not sensitive to racial diversity and gender diversity that certainly we would be sensitive to that. I would lend this comment and this argument – that this is a City and it is to reflect the Cities and in no way does it remove total discretion of the County Commissioner to make a selection. We are not dictating that in any case there has to be one person selected; we are giving them a pool. So in fact, we are not removing their total discretion of appointment. I wanted to share those thoughts and comments with you as well.

- A subcommittee member explained that he is concerned with the Broward League of Cities Proposal because he does not agree with Mayor Cooper's comments that the City appointed members are to reflect the views of the Cities. He explained that the Planning Council is a Countywide Board which is to review development from a regional perspective. He asked how appointing someone that will absolutely, unequivocally tow the City's line is going to further the goal of the Planning Council.

**Mayor Cooper:** I don't mean any disrespect; it's not the regional Planning Council. This is a basic County Planning Council.

- A subcommittee member clarified their definition of regional, explaining that it meant outside of the City of Hallandale.

**Mayor Cooper:** The whole concept of the Planning Council goes back – and I have had an opportunity to actually speak to some of the pioneers of the Planning and Charter Review where it was created. It goes back to the point that there were all these Municipalities in the County,

and that there were unincorporated areas; that's why the County needed the Planning process to begin with and needed a Planning Council to go back and have representation. I agree with you that it's a regional approach, but from a City's perspective, we have a seat at the table and it goes back to my example – and that was only one example. This has taken place in many other communities; where the County Commissioner totally disregards the position of the City. As a matter of fact, it just happened with the County in our City with a very critical issue of Growth Management that might end up in litigation.

So as far as having a seat at the table from an Elected Official's standpoint we are to reflect the City's views. We do have to look at it in a global perspective through the EAR Evaluation Program. We actually negotiated at what point the purpose of the Planning Council or a County Commissioner serves in mitigating battles or differences between a City and City in regards to development that takes place on a border. To me it was created originally to create a balance, a view, and a vehicle to not just say it's the County's Board and this is what is going to happen. Every issue – again it goes back to local control and local Home Rule. I've had cases, and again going back to something where my City had an item that was unanimously approved, even our residents wanted it, they usurped their power. So, there needs to be checks and balances.

Again, that original proposal was to remove it altogether and just have the checks and balances stand as the Broward County Commission. That again even with this proposal, it does not circumvent the County's total approval process. It allows the County to go and still have their decision to make sure that every development has met its technical standards. You have to realize the process from the grass roots up. We're required by Growth Management to address every technical concern of any development. To me that is global. It's Water, its Sewer, its every issue, Transportation, and there are certain checks and balances within the policies in procedures that this process already takes place. This again goes back to process and really to what extent, how many people need to be in this process, at what point does the cost to get through the process overrule any reason to have reasonable redevelopment, and I prefaced even Affordable Housing. We've heard that through this process of how arduous it has become to even create Affordable Housing because of the cost.

- A subcommittee member advised that based on testimony from Ms. Eichner that the process has become much shorter.

**Mayor Cooper:** It has. Again I am not saying that the process, this one step, will close the door currently to what our concerns and issues were raised and what was negotiated in good

faith to reach the compromise between no Planning Council and at least creating a balanced Planning Council.

- A subcommittee member: “You have a pro-development City; you’ve got an anti-development Commissioner. This pro-development City offers three (3) Elected Officials who are pro-development and now you’re forcing this Elected Official – the County Commissioner who is elected on slowing down growth to appoint a pro-growth City official, where is no?”

**Mayor Cooper:** It goes back to the issue of the Planning Council. That representation is supposed to represent the Cities involved.

- A subcommittee member stated that he sees it representing the people. He asked how the people would change direction if they are being forced by the cities to go in another direction. The subcommittee member advised that he believes the proposal takes away from the will of the people.

**Mayor Cooper:** Actually, again, it goes back to the County Commissioner’s full discretion to have the ability to have the people appointed on that position to reflect their desires. Not to have two people that represent their desires – but to have City representation and a resident representation that creates a balance between both parties as far as the representation.

- A subcommittee member replied that in that situation, the electorate didn’t want a balance; they wanted change.

**Mayor Cooper:** It’s very interesting and if I can -- *This is not an opinion of the League, this is what I’ve perceived and even within my own City Chambers.* It’s quite unique because that whole process in itself, I think is very much a loud minority-rule.

- A subcommittee member asked which process.

**Mayor Cooper:** The Planning Hearing Process as far as a bite at the apple and continually going. We as Elected Officials, and this goes back to deciding local issues in our communities, that’s why I represented the majority of our residents. I’ve had specific testimony where everyone supported a development in my community; not just the Commission in my community; it goes back to the understanding of the balance.

- A subcommittee member advised that they believe the proposal is forcing the County Commissioner to possibly appoint somebody that they are philosophically opposed to.

The Chair thanked Mayor Cooper for her comments and requested she remain if possible.

***Mayor Lois Wexler, Broward County Commissioner***

**Mayor Wexler:** Thank you very much for recognizing me this morning. You have a very difficult job, and it is a particular difficult job with incomplete information, really difficult. I've spent the last two days finding transcripts of before I ever became a County Commissioner, and trying to get the written records – which I think is so important in decision making. What I have just heard – and Mayor Cooper did indicate many times in her comments that it was *personal*. I think that's something that we want to rise above, especially when we look at Charter changes – we don't want to deal with personal. We want to deal with what is in the best interest of moving County Government forward.

Having said that, I want to start with the easy issue; because there are two issues here this morning; five (5) or three (3) and I have not found any record to indicate three (3) from the League of Cities. There is not a word that I have found in the Resolution that was attached to my letter. All I have is about the Appointments coming from a pool, and we will get to that because that's the more difficult conversation. I want to deal first with the changing of the composition through numbers of the Planning Council.

The Planning Council by design is a very balanced group, 20 members; each Commissioner has two Appointments, one Lay, one Elected, the School Board has an appointment, and the Commission itself has a representative that goes there as our Appointee; that was to create the balance. In order to take; whether it be three or five representing Cities, from the League you are now upsetting the balance.

The conversation of – I hope you've had the opportunity to have correspondence from my colleague Commissioner Lieberman who was Mayor the year that negotiations – they actually went on for two years; but she was very much the champion along with at that time, Vice-Mayor Jacobs, in working with leadership, with the League to try to bring consensus and to negotiate something and bring that back to the Board of County Commissioners. The issue of increasing the League's membership is something that I don't doubt, as a matter of fact, I'm positive that it was debated in negotiations. I am positive that it was debated by Commissioner Lieberman and Jacobs and the representatives of the League. As a County Commissioner – and I was elected in November of 2004 and voted on the Resolution that's attached in January of 2005. I didn't

talk about or have the opportunity to speak about increasing the membership, and I have not been able to find any record to document that – that was ever brought forward to the Board of County Commissioners. I want to make sure that's the body that we're talking about – again, Commissioner Lieberman's letter to Mayor Cooper indicates that the Board never discussed this as a change to the Charter and that she agreed with my statement in the letter that I had sent to you, that it was never discussed by the Board – adding the additional Elected Officials to the Planning Council. I want to state that ***FOR THE RECORD, that as a member of the Board of County Commissioners, there are different levels of discussion to have brought it to the level where it was embedded within the Resolution. We have not found evidence of that.*** That was the easy one.

The more difficult one really is the language that was voted on January 25, 2005 by the Board of County Commissioners. The direction to create the Resolution occurred in June of 2004. The reason that I asked Ms. Madison to come to the table is because I wasn't a Commissioner in June of 2004 and the very lively conversation that took place certainly was – and again, they don't have the record. We do have the record and indeed it was voted on to move language forward, in the way of a Resolution; to address the manner in which cities – the City representative was appointed by the Commissioner, but what the transcript reveals is that the Commission was very much split. They agreed out of courtesy to Commissioner Lieberman who made the request, and it is captured in the transcript to move it forward, to ask Council to draft something. They debated heavily and were quite split on the previous conversation and your questions, Representative Ketcham, just exactly what you said; what should it reflect, and taking away the belief that it's the Commissioner that should choose.

So what you have in front of you in my opinion, is extremely confusing language, that was drafted and approved in January of 2005. It begins with a "may" and ends with a "shall," and that always brings hives to my skin. Looking at the transcript and reading the heavy discussion, even in January of 2005, it is revealing to me what the intent of my colleagues, and I was one of them at that point, happens to have been to move forward with what was negotiated, however not to make it binding. I believe that – that's what Mayor Cooper's request to you, in the way of an action by addressing embedding this within the Charter would do -- *make it binding.*

If you would like, I would be very happy to verify the direction, the language of the Board of County Commissioners at our next Commission meeting, and make sure that my understanding of the transcript is reflected in my testimony before you today.

- A subcommittee member expressed confusion with the authentication of the transcript provided by Ms. Calhoun. He inquired if it is the transcript of a County Commission meeting.
- A subcommittee member advised that the document is actually a “Broward League of Cities Discussion.”

**Pamela Madison, Assistant County Administrator**

**Ms. Madison:** During the years of negotiation there were two Commissioners and two League of Cities’ members that were part of a negotiation team and those minutes reflect the conversations of those negotiations. I believe what Mayor Wexler was indicating is that while the issue of additional League of Cities Appointments to the Planning Council may have occurred at the negotiation level, it was not an issue that the County Commission debated as a Board in terms of an item going before us to make a Charter change. At the meeting where the Board did in fact authorize the Attorney to create the Resolution, it was clear that Commissioners would choose to use the process, and it be permissive, and there are two Commissioners on our Board that have in fact utilized that process; both Commissioner Jacobs and Commissioner Lieberman.

I am happy to answer any questions that you have, but I would like to clarify one comment that Mayor Cooper made in representing the negotiation history and County’s good faith or lack thereof with our Land Use discussions. During the timeframe that these negotiated sessions were occurring, there were still attempts to eliminate the Broward County Land Use authority legislatively, while the negotiations were going on, and the County Commission obviously directed staff. I was Director of Governmental Affairs at the time, to work with our Lobbyist to defeat that because the Board feels strongly in maintaining the Planning Council structure in Broward, especially with 31 Municipalities.

During the last Legislative session, Broward County did not take the initiative to be made a pilot within the Growth Management Legislation. We were approached late in session by Chairman Dean Cannon who actually cited our Planning Council process as a model that would make us a good pilot for the Growth Management Pilot. I believe it was Broward and perhaps Orange County – I can’t remember the other County that was included in the pilot, but they have the similar structure.

Unknown Speaker: Pinellas.

- A subcommittee member asked what the pilot process does.

**Ms. Madison:** The Secretary of DCA had some heartburn over the initiation of the pilot as the new Secretary. I don't know, I would have to defer to our Urban Planning folks. I don't know if the pilot has been fully implemented, but the goal was to try and help reducing the timeframe to get these issues on their way to DCA so that there wasn't much of a lag in our process, RPC and all of the other steps along the way, once it's passed by a local City Commission.

My only other comment is whether the League has three (3) or five (5) direct Appointments; unless you have 32 Municipal Appointees to the Planning Council, you may in fact never have a Council that might represent the needs of one particular City. Having 18 people with no two being able to represent more than one City; neither the Citizen Appointee nor a Municipal Appointee, no more than two can be from any given City unless they're more than 50,000 in population. So, I believe that even today you would have 18 of the 31 representatives. I don't know, Mr. Sniezek can speak to this better than I, on how many occasions there have been denials. The Board of County Commissioners never approached the adoption of the Resolution or discussed it as a change to the Broward County Charter, and that is something that I think Mayor Wexler offered. That if that is the decision or the potential recommendation, we would like to take that back to the Commission, but it was never discussed as a Charter change; it was always discussed as a good faith effort to continue those negotiations.

- A subcommittee member referred to Ms. Madison's comment that some Commissioners have used the procedure of taking people from the Municipalities and some have not and advised that this seems inconsistent with the Resolution because the Resolution says that it "shall" be done. *Reference: handout of Broward County Commission Agenda Item 74 dated on 1/11/2005.* The Chair asked if there was a change to the Resolution.

**Ms. Madison:** No. Actually, I believe that was Mayor Wexler's question about having hives over the Resolution. The first line says that the Cities "may" provide a list, and the discussion moving this to drafting of Resolution was that the Authorities can make these Appointments by the Board; it lies within the Charter, that each County Commissioner feels that they should be able to appoint someone to the Planning Council that does represent their philosophy, which I believe, was Mr. Ketcham's comment, that as an Elected Official whether you are at a County or City level you will in fact make Appointments to Boards that reflect your philosophy.

- The subcommittee member clarified his question asking how some Commissioners are following the Resolution and some are not because it seems to be mandatory.

**Ms. Madison:** I think that the issue is the “may submit names,” I believe is the permissive piece.

- A subcommittee member asked if there were situations where the Municipalities have submitted names and the Commissioners have not picked off the list.

**Ms. Madison:** To my knowledge that has not occurred.

- A subcommittee read from Resolution 2005-046 and stated that if the Municipalities don't submit anyone the Commissioners would make the appointment in the traditional manner.

**Ms. Madison:** That's correct. I don't believe there has been a violation of the Resolution.

**Mayor Cooper:** I just want to reference that the last three pages are the direct testimony in regards to the adoption.

**Mayor Wexler:** I did reference hives, because when I dissected the language and saw my understanding of it, it was in conflict. It was absolutely conflicting language.

- A subcommittee member asked for clarification of what language Mayor Wexler was referring to.

**Mayor Wexler:** The language of the Resolution itself regarding Appointments, and then there are other nuances that seem to be embedded within it. I represent 8 different cities, parts of 7 and one whole. If one of those cities doesn't submit, then all bets are off. So it seems to indicate that all of my cities; for instance, would have to submit a name in order for me to choose, and then you have to factor in the gender, race, ethnic balance; which is a desire as well, which also trumps language that's in here.

I think it's poorly written. I don't know who wrote it. That's okay, but the original direction in June of 2004, that gave direction for a Resolution to be written. The debate on the Board of County Commissioners was indeed that they did not want to give away their authority to choose.

The Resolution comes forward in January of 2005; which is the product that we have in front of us and what the Board did approve. There was further debate and I believe that our interpretation is focusing on the “*may*” word verses the “*shall*” word, and that's where the confusion really seems to lie. It's debatable, we could sit here for the next 3-hours, it's

debatable; of what the intent was, whether it's clear, or whether it's not, and I don't think it's clear at all.

The Chair asked Mr. Sniezek if he had anything to add; he advised that he really respects his opinion on these matters.

**Henry Sniezek, Director, Broward County Planning Council**

**Mr. Sniezek:** Thank you. I guess I don't have a lot to say because the Planning Council really doesn't have any authority on how its membership is chosen; they don't have any position in this regard. I'm keeping them informed of it. If they bring it up at the next meeting, then I'll come back and report to you, but I'll be happy to answer any questions.

- A subcommittee member asked if anyone had the information on the vote that was taken on Agenda Item 74 when it was passed.

**Mayor Cooper:** Yes and the last 3 pages are verbatim minutes of the passage of the Resolution and it says the vote passes unanimously.

**Mayor Wexler:** If that's the January 25, it's unanimous.

- A subcommittee member referred to the language of the existing Resolution 2005-046 and advised that she hopes the needs of the communities are being represented. That in reading the summary she too is confused with the "may" and "shall." However even though it does not say that they all have to submit a list, if six of the 8 does submit then someone should be picked from the group who took the time to submit. Although the Commission did not indicate that they wanted a Charter Amendment; this is the reason for having a Charter Amendment, so that it is clear and everyone understands.
- The subcommittee member stated that even though the "may" and "shall" are there, the intent is clear that Municipalities will have input on who gets elected to the Planning Council; and the individuals elected in the Municipalities are people that are elected by the people. She stated that she would hope those individuals and elected officials represent the needs of their communities.
- The subcommittee member stated that she can understand that the Commissioners have different mindsets from the Municipalities, but in reading the language alone it clearly says the individuals will be appointed from a shortlist but now there are back and forth interpretations and confusion.

The Chair asked Ms. Rogers for comments because she was present and a part of the Negotiation Committee.

**Ms. Rogers:** What we were trying to achieve is a balance where the County – leaving it local not taking our issues to Tallahassee for Tallahassee to determine our Land Use issues. For me in my position; that was what we were trying to achieve, and I think we did a great job. I can understand the confusion here in the language and I know that we did not always agree because some Commissioners felt strongly that they wanted that choice to be theirs. When a Resolution is passed, and that is how we govern, I would hope that it is in good faith and that the intent of the legislation would be adhered to by everyone since it was passed unanimously.

- A subcommittee member asked Ms. Rogers if it was her understanding that what was agreed to was a binding process or if it was a “may” type of process at that time.

**Ms. Rogers:** That was what we were hoping to achieve by this Resolution. When I hear the discussions about whether or not someone is pro or red or blue – I’m going to use red or blue, and how do we gain that balance of use on the Commission. I would always remind the Planning Council that they are not to be thinking just about their Municipalities, but about the entire County; because some of the issues that we will face are when Cities cannot agree on certain issues. We need it for the Planning Council; this independent body to be able to help us to decide those issues. That has always been my position to make sure this Planning Council understands that they are there to help the County and all of us resolve issues when Cities cannot agree or County and Cities cannot agree; that they’re working to make sure we resolve those Regional issues. I did not hear that presented by any of the presenters here today. That was the major issue because today we’re having Cities bumping heads. There are Counties and Cities bumping heads. So, this Planning Council needs to resolve those types of issues as we move the County forward. Thank you.

**Mayor Wexler:** I don’t have anything else to add to Commissioner Rogers, she said it beautifully.

**Mayor Cooper:** I just want to clarify a few things and read a little bit from the documentation. Hazelle thank you for your input; but I had referenced that because a part in the negotiation process of where City and City have issues, that the Planning Council could play an integral role as far as those types of issues. I did reference that, just so you know and I know we worked on these negotiations and I was there. I think just as a response to some of the comments, and I know the Mayor even referenced it too, it goes back to *elected*. There is supposed to be a

Municipal elected appointment to reflect a Municipal appointment view. That's I think, key to the Planning Council and how it's comprised.

As far as the "may", the process of why we put "may" within it is, if the City does not want to appoint and get involved in the process we certainly do not want it to hold up an appointment process. The key was, and I'll tell you how it works now, I'll use Commissioner Lieberman as an example. She proactively addressed this issue. She sent a letter to each Municipality and requested that they put in their appointment. Right now there is no mechanism. There is a wishful Resolution that was resolved; that was a point that was approved unanimously by the sitting Commission. I know it was unanimously approved, that that process was palatable, it was fair, and it was equitable. In fact there are two that are doing it. So it is doable, it is reasonable, and it still lends itself to some discretion. So, that's where the "may" came from.

The problem is the Resolution doesn't have any teeth. There was actually reference in testimony in the back that we gave you; that there was an understanding there would need to be a Charter Review Amendment on this issue. That there would have to be some Resolution on the Charter Review level, to make sure that this was the guideline; that it was adopted and certainly presented. This goes back to the voters. This will be decided by the people that you question and that certainly, and I have to remind everybody, I represent those people too. I represent them as a whole within my Community.

- The Chair stated that Resolution 2005-046 is not drafted well and has created a lot of problems. He pointed out that there is no provision in the proposed language to address what would happen if the Cities don't appoint or provide a list. He asked Mayor Cooper what should happen.

**Mayor Cooper:** Actually they haven't been asked. I would put my money on if the letter went to a City, they would appoint and make recommendations. Regretfully our lead Counsel, who works for us tremendously, is Sam Goren who has direct conflict with this Body. Neither he nor his firm could draft a legal representation. So again, I even preface my comments, like this is not perfect. I agree with you, but it was quite difficult for us within the process because there is a conflict with Sam Goren with this particular Body.

**Ms. Calhoun:** The Resolution speaks to it.

- The Chair advised that what's being discussed is not the original Resolution but the proposed language currently before the Charter Review Commission and it is important to be clear to avoid repetition of the debate in the future.

- He explained that he knows the information is not in the proposed language because he has read the proposal from the Broward League of Cities. He again asked what the League's position is if any, if a Commissioner writes the letter and they don't get a list, what does the Broward League of Cities wish to happen?

**Mayor Cooper:** The Broward League believes and supports that every City will respond and if they don't, there's still a pool, and I'm hearing it's in the Resolution and doesn't need to be in this language and that decision is up to you.

**Ms. Calhoun:** In C, the part that we are speaking about here, the last sentence, it starts with, *"If all of the Municipalities within a Commission district do not submit a name..."*

- A subcommittee member asked Ms. Calhoun what page she is referring to.

**Ms. Calhoun:** On page 2 of Resolution 2005-046.

- A subcommittee member asked what the Broward League of Cities wants to happen if the Commission doesn't get appointed.

**Mayor Cooper:** It should be known that we don't want it to delay the process period.

- A subcommittee member explained the process and again asked Mayor Cooper if a list is not provided, what the League of Cities wants to happen.

**Mayor Cooper:** I wouldn't have a problem, and certainly I'm speaking here today and letting you know; I believe that Cities will respond but in case that they don't, I would like to see some language like '**you use it or you lose it**' and that would be the recommendation. You understand what I'm saying. I think that's fair and reasonable. I think that every Municipality will respond to this opportunity. They're actually welcoming the input, they just have not been asked.

**Ms. Rogers:** I think we're criticizing this document; in my opinion, *unfairly*, because it really stated that each City "*may*" submit; because we're saying some Cities don't. It also provided for those Cities that responded, for the County Commissioner to appoint from that list, and if no City makes any, which we know will not happen; it is still the County Commissioner's prerogative to choose. That is my understanding.

**Mayor Wexler:** That's why it hasn't been consistent.

**Ms. Rogers:** I think what the League is also saying, is that if every Commissioner follows the intent in this document where a letter goes out to the City letting them know they have this appointment, you have 10, 15, or 30 days to respond, and if they don't, then it is your prerogative to choose from the list. If there is no list, it's your prerogative to choose anyone that you would like. It is clear that the Cities "*may*", and it's very clear that the County "*shall*". Okay, it's clear what the County should do in this Resolution and it's very clear to me what the Cities "*may*" do in this Resolution; I have no conflict there.

- A subcommittee member stated that the Resolution **does not** seem to contemplate the additional members; he asked how it didn't get into the Resolution.

**Ms. Rogers:** There was no Resolution to that affect so as the President of the League, if you would like to make that recommendation to this Body at this time that we consider it, then that's a different point.

- A subcommittee member confirmed that there was no real agreement on the item.

**Mayor Cooper:** There was discussion in the backup.

**Ms. Rogers:** There was no agreement, we did not move a Resolution, and nothing came of it.

- The subcommittee member confirmed that it was not a part of the "peace treaty."

**Ms. Rogers:** Something got missed, you know, you miss things sometimes.

**Mayor Cooper:** Again it goes back to the fact that, this originally and I said at the Executive Board and the last League meeting, because of dialogues and communications and negotiations, they put that back in here. Certainly it was put back in and I will clarify that. I just wanted to make sure that it was put in and that the Board voted on it to move it forward.

I certainly, in the light of goodwill negotiations understand that it was negotiated part of tweaking, but it was never in the original Resolution adopted by the County Commission, so that needs to be clarified.

The Chair explained that he was responding to Commissioner Lieberman's letter which advised that it was not a part of the original Resolution.

The Chair acknowledged that subcommittee members needed to depart at 10:00 a.m. and advised that he does not wish to rush the issue. He therefore suggested hearing from the public and subsequently tabling the issue until the next LUSC meeting.

- A subcommittee member suggested taking a preliminary vote on whether the subcommittee wishes to further discussions on the two issues before them (1) to change the Broward County Planning Council Appointment Process or at least to clarify it; (2) To add additional members.
- A subcommittee member also suggested having Special Counsel (Mel Wilson) redraft the Resolution including all the comments and issues raised during today's meeting.

**Ms. Good MOTIONED to accept the preliminary proposed concept of the Broward League of Cities with respect to the appointment of the Elected Municipal Officials to the Broward County Planning Council and to direct CRC Special Counsel to draft language and return same to the LUSC for review and discussion; Mr. Weiss SECONDED for the purposes of discussion.**

The Chair asked if the subcommittee is clear on what the motion is.

- A subcommittee member expressed confusion.
- The Chair clarified the intent of the motion stating that, *"the conceptual concept of the motion is that the process where a County Commissioner would write to the Municipalities and within a certain period of time the Municipalities would have to propose members to the County Commissioner; the County Commissioner would have to then appoint the Elected Official appointment off that list. The second part would be to ask Mel Wilson's office to draft language to be brought back to the LUSC for consideration."*
- A subcommittee member wished to confirm that the motion will remain in the LUSC for consideration.
- The Chair confirmed that the motion is an internal subcommittee motion.

**Ms. Good MOTIONED to accept the preliminary proposed concept of the Broward League of Cities with respect to the appointment of the Elected Municipal Officials to the Broward County Planning Council and to direct CRC Special Counsel to draft language and return same to the LUSC for review; Mr. Weiss SECONDED.**

The Chair called for a roll call vote.

Commissioner Hayward Benson	<b>Absent</b>
Ms. Maggie Davidson	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Mr. Ketcham	<b>No</b>
Joseph Maus, Esq.	<b>No</b>
Commission Hazelle Rogers	<b>Yes</b>
Dr. Irv Rosenbaum	<b>Absent</b>
Richard Weiss, Esq.	<b>Yes</b>

**Motion PASSED on a roll call vote of 4 YES to 2 NO.**

**Mr. Weiss MOTIONED to conceptually amend the Charter to add the five (5) elected Municipal Officials appointed by the Broward League of Cities Executive Committee for a term not to exceed four (4) years. Ms. Good SECONDED.**

The Chair called for a roll call vote.

Commissioner Hayward Benson	<b>Absent</b>
Ms. Maggie Davidson	<b>Yes</b>
Ms. Patricia Good	<b>No</b>
Mr. Ketcham	<b>No</b>
Joseph Maus, Esq.	<b>No</b>
Commission Hazelle Rogers	<b>No</b>
Dr. Irv Rosenbaum	<b>Absent</b>
Richard Weiss, Esq.	<b>No</b>

**Motion FAILED on a roll call vote of 1 YES to 5 NO.**

**Mayor Cooper:** I want to thank you for your time and opportunity. We will work together and work on this issue.

**Mayor Wexler:** When will the language be coming forward?

- The Chair replied at the next meeting.
- A subcommittee member asked if time- wise the LUSC would set a date for the last time someone can bring items forward.
- The Chair replied that February 13, is the sunset date; therefore the decision should be made at the next meeting and the recommendation forwarded to the full CRC.

- Ms. Rogers reminded the subcommittee that public hearings are forthcoming and if items are brought forward at that time they will have to be considered.
- Ms. West advised that the public hearings are different from the need to have the subcommittee meetings.

### **Next Meeting**

February 8, 2008 - 10:00 a.m. to 12:00 p.m.

### **V. Public Comment**

**Mayor Cooper:** Again I apologize for any miscommunication.

- The Chair replied that it is the fault of the League, not Mayor Cooper's fault.

### **VI. Adjournment**

- The Chair wished Ms. West the best of luck during her surgery.

There being no further discussion or comments the meeting was adjourned at 10:08 a.m. The minutes of this meeting are recorded on CRC-LUSC CD # 1.18.08 (BCGV CTR).