

Summary of Discussion
Broward County Charter Review Commission
Land Use Subcommittee
Friday, August 17, 2007- 8:00 AM - 10:00 AM
115 S. Andrews Avenue, Room 430
Fort Lauderdale, FL 33301

Members Present:

Richard Weiss, Esq., Chair
Mr. Mark Ketcham
Ms. Patricia Good
Dr. Irv Rosenbaum

Members Absent:

Commissioner Hayward Benson, Vice Chair
Joseph Maus, Esq.
Robert Penezic, Esq.

Others Attending:

Elliot Auerhahn, Broward County Urban Planning
Barbara Blake Boy, Assistant Director, Broward County Planning Council
Chedley Etienne, Administrative Assistant, CRC
Ellen Feld, Water Management Districts
Yolanda Grooms, Administrative Specialist, CRC
Maria Gross, Assistant Director, CRC
Alfreda S. King, Transcriber, PKING Consulting
David Tolces, Esq.
Patricia G. West, Executive Director, CRC

(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 8:00 a.m. on Friday, August 17, 2007 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

I. Call to Order/Roll Call

The Chair, Richard Weiss called the non-meeting meeting to order at 8:12 a.m. due to lack of the presence of a quorum. The Chair requested roll call by Alfreda S. King, of PKING Consulting, Inc.

II. Approval of Summaries of Discussion from 5/18/07, 6/1/07, and 6/15/07.

Ms. Good MOTIONED, Mr. Ketcham SECONDED and the motioned carried unanimously to approve the Land Use Subcommittee May 18, 2007; June 1, 2007; and June 15, 2007 Summaries of Discussion. *Note: Vote occurred post quorum arrival at 8:20 am.*

III. Discussion of Information Collected Regarding Open Space-Preservation of Land and Water, and Open Space to Remain Open in Perpetuity.

Ms. West stated that the staff collected as much information as they could about the Open Space Program. She advised the Committee that staff received all of the information from the Land Preservation Administrator regarding the purchases made during the Bond Program. The covenants related to the purchases were also provided. She indicated that she believed that the idea would be just to get this information into the Charter, and currently there's nothing in the Charter in terms of land remaining open once it is purchased through the bond program. Ms. West informed the Committee that some of the land is in the city, but the county purchased the land and deeded it over to the city. If they were to change it, it would come back to the county. The idea was that the LUSC would have a discussion about whether or not they wanted to consider that issue as one of their issues for the recommendation to the Charter.

- A subcommittee member asked what the difference is between retained and deeded.

Mr. Tolces: It may be that the City received funds from the County to acquire the property. So where it says conservation of an-agreement space acquired and retained by the municipality; maybe it's that the City never received funds and I am not sure; but they could have required them to sign the Declaration of Restricted Covenant to make sure that the property remained green space or open space as part of that. The one for the County acquired property – the County probably used the funds, and then deeded the property to the City and included the restricted covenants that it would have to come back to the County Commission if anything different were to be done with the property.

- A subcommittee member asked for clarification.
- It was suggested that nothing needs to be changed on the issue.

- A subcommittee member suggested having a staff person from the Land Preservation Administration Program come in to explain what protections are in place.
- It was determined that the overall concern of the issue was that the County bond money wouldn't be used to purchase open space property; and the County will use the funds for non-recreational and non-open space properties.
- It was mentioned that another concern would be that the make up of the Commission might change and there might be a push to have this land released if there was a problem with land lock.
- A subcommittee member asked, what would stop the County Commission from going back to make changes to say that developers can use empty spaces for development.
- It was advised that covenants can be amended.

Mr. Tolces: As provided in this restrictive covenant, in paragraph 3B – says, no modification or termination shall be permitted unless specifically approved by 4:5 vote of the entire Board of County Commissioner.

- A subcommittee member stated that the public should have the right to vote to approve the amendment rather than the 4:5 of the County Commission.
- A subcommittee member asked how hard it would be to change a deed restriction.
- It also was asked if the County has the authority to change deed restrictions.

Mr. Tolces responded to questions from the subcommittee.

Mr. Tolces: I won't say it is easy, but you have to get 4:5 votes.

[Dr. Rosenbaum entered at 8:20am - QUORUM PRESENT]

Mr. Tolces: I think Mr. Ketcham's questions are with respect to the bond issue itself – if there's any language in the bond issue that would affect the County's responsibility to either refund or do something else with the money that was provided for, through the bond issue; if any of that property was no longer used for open space or recreational proposes.

- A subcommittee member suggested to have Mr. Tolces and an administrative representative relevant to the issue speak to the subcommittee at the next LUSC meeting regarding the Open Space Program and what protections are currently in place and how they are changed.
- It was suggested to table the discussion until after the subcommittee has more knowledge on the issue.

- A subcommittee member advised that the County has a lot of land, and some lands that the public have no access to.
- It was suggested to add public access as an issue.
- A subcommittee member stated that the first step is determining if enough protection is in place.
- It was suggested that if the subcommittee feels that there is enough protection in place then there is nothing to be done, but if the subcommittee feels like there is some additional protections that are necessary, then the Committee should get into those issues.
- A subcommittee member suggested writing a letter to Pam Brangaccio asking about this program; and requesting that she allow County staff to come speak to the subcommittee about the legal restrictions on County properties.
- A subcommittee member stated that the Parks need to be protected.
- A subcommittee member stated that they are having a hard time with the bond issue, and does not feel comfortable tying the hands of future government.
- It was suggested that the Land Use Committee look at a Comprehensive Policy and preserving open space.
- Staff will provide the subcommittee with a broader report relevant to general restriction on County Parks.

IV. Discussion of Proposed Draft Revision to the Broward County Charter Addressing Road Closings and related correspondence.

- The subcommittee was advised that the former Chairman of the Planning Council, Scott Brook and the Planning Council Attorney Andrew Maurodis, Esq. would be in attendance at the next LUSC meeting.

Mr. Tolces: I think they had one meeting in July where they referred to it; but I don't think they met in August.

- It was suggested to write the Planning Council a follow up letter.
- A general conversation ensued.
- A subcommittee member asked if the issue of Road Closings ever came up before.
- It was determined that Road Closing was a new issue.
- A subcommittee member suggested writing a letter to the Mayor of each City, inviting them to the August 31, 2007, LUSC meeting, and the Committee agreed.
- Staff will send the proposed amendment as an attachment with the letter.

- A subcommittee member asked Mr. Tolces for his opinion.

Mr. Tolces: We will work on getting the opinion to you by the middle of next week. – Well, I think you are just asking for a legal opinion as to whether or not the proposal is in conflict, so I will say no.

The Chair grouped items 5 and 6.

V. Discussion of Summary of Issues Chart for Land Use Subcommittee.

VI. Where Do We Go From Here

- A subcommittee member stated that the Land Use has only two serious issues before them.
- A subcommittee member advised that there were no proposals from anyone relevant to the Land Use issue.
- A subcommittee member added that Broward County has come a long way, in improving Communications between Municipalities and the Government.
- A subcommittee member stated that their concerned about the people who are interested but are not getting involved.
- A subcommittee member asked if the County Commission could impose and ordinance that could potentially affect zoning and applications that do not go through the Planning Council first for their comments.

Mr. Auerhahn: The Planning Council reviews any changes to the Broward County Land Development Code or any regulatory changes to the Environmental section to the County Code that have County-wide impact. That's a legal question, when those type of issues come up for the Commission, they turn to their Attorney and their Attorney has to advise them what kind of authority they have to pass a law like that, that is when you get into those things.

Mr. Tolces: If you are talking about affecting the process that goes on in the City, with respect to rezoning or a site plan or a Land Use Plan amendment; it could not necessarily affect the process that the City undertakes, but if there is some impact or some need that the County finds; that could result from the proposed development. Some type of – you want a density increase or something like that to provide for affordable housing. In theory, the County could provide for some type of requirement that would affix to something that the County has to review; like a plat amendment or a plat approval or the Land Use Plan Amendment.

- A subcommittee member added that the County has very little authority; the County **does** have inherited powers over the municipalities--only those granted in the Charter.

Mr. Tolces: Typically, anything that deals with development issues would arise out of a land development regulation or a Comprehensive Plan amendment. They would be funneled through the Planning Council. I would think that it would, because with the affordable housing you're looking at density issues. It would be that the need for the affordable housing would be generated because of the Land Use plan amendment, that is being processed most likely or a rezoning issue.

- A subcommittee member stated that the County does have the ability to require affordable housing in municipalities.
- It was determined that the LUSC has two serious issues which are Traffic Ways and Open Space.
- A subcommittee member asked staff to research how other Counties protect their overall Open Space.
- A subcommittee member stated that they would like to have examples of how other Counties protect their Open Space.

VII. Public Comment

NONE

Next Meeting

The next Land Use Subcommittee meeting will be held on Friday, August 31, 2007 8:30 am - 11:30 am.

VIII. Adjournment

There being no further discussion or comments the meeting was adjourned at 9:00 am. The minutes of this meeting are recorded on CRC-LUSC CD # 8.16.07 (BCGV CTR).