

**Summary of Discussion  
Broward County Charter Review Commission  
Land Use Subcommittee  
Friday, November 2, 2007- 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  
Commissioner Hayward Benson, Vice-Chair  
Ms. Maggie Davidson  
Mr. Mark Ketcham  
Dr. Irv Rosenbaum

**Members Absent:**

Ms. Patricia Good  
Joseph Maus, Esq.

**Others Attending:**

Maite Azcoitia, Deputy County Attorney  
Brandon Biederman, Builders Association of South Florida  
Chedley Etienne, Administrative Assistant, CRC  
Ellen Feld, Esq., Water Management Districts  
Yolanda Grooms, Administrative Specialist, CRC  
Maria Gross, Assistant Director, CRC  
Bob Harbin, Director, Broward County Parks and Recreation Division  
Commissioner Kristin D. Jacobs, Broward County, District 2  
Phyllis A. King, Transcriber PKING Consulting, Inc  
Beth Lerner, Representative for Martin David Kiar  
Emily McCord  
Sue Olson, Broward County, District 2 Commissioner Aide  
David Tolces, Esq., Assistant General Counsel  
Debby Ross, Planner Broward County School Board  
Scott Wyman, Reporter, Sun Sentinel  
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 8:30 a.m. on Friday, November 2, 2007 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

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

The Chair, Richard Weiss, called the meeting to order at 8:38 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 10/19/2007**

**Mr. Ketcham MOTIONED to approve the Land Use Subcommittee Summary of Discussion dated October 19, 2007. Mr. Benson SECONDED and the MOTION passed unanimously.**

The Chair stated for the record that staff did a good job with the dissemination of the draft; he added that there was a total of 576 letters and copies of the proposed Ordinance mailed out. The Chair advised that he believes everything has been done well with the distribution; he informed the subcommittee that a re-draft of the proposed resolution has been provided in their folders along with an email from Commissioner Kristin Jacobs.

The Chair gave Mr. Tolces the floor for an update on legal counsel's revisions.

**III. Continuation of Discussion of Revised Proposed Draft Amendment, entitled: Broward County Park Preservation, Resolution 2008-007, revised as of 10/25/07**

**Mr. Tolces:** In your agenda, there should also be a memo that we provided. It is memorandum number 2007-22 which outlines the revisions that are contained in this draft. For the benefit of the public and the Board members I will go over what the changes are. I will start with proposed section 8.13A and in section G, we've added in language that excludes that portion of the Helwig Park that is a disturbed area.

The Chair advised that this issue was discussed previously and Mr. Horowitz was instructed to make changes.

**Mr. Tolces:** We have included in the proposal in paragraph A-3 a definition of what a disturbed area is, and that means that area of the park which no longer retains a prestige and unique characteristic of a natural area park. We've also added a provision in section 3 that provides for the ability to have the County lease natural area parks to private entities for weddings and other

events; provided that the events do not alter the passive recreational park uses, which are defined in the proposal. We've also – I skipped over section 2, with respect to passive recreational park uses, that the natural parks may not be sold transferred or used for commercial purposes, or used for purposes other than a natural area park, unless the actions are approved by an affirmative of no less than 2/3 of the electors in Broward County voting in a referendum for that purpose. In section 5, we have added the ability of the County to construct or install facilities that enable the ease, comfort, access and enjoyment of the general public in those natural area parks as long as they do not alter the passive recreational park use.

With respect to regional parks, specifically in section-2, to the County's flexibility to sell, transfer or allow regional parks to be used for some other purpose that change must be approved by an affirmative vote of no less than 2/3 of the electors voting in a referendum, as opposed to the previous language, which had the unanimous vote of the County Commission. That allowed us to take out section 4, because if the voters are going to approve the change in the regional park, there is no need for there to be an acre-for-acre replacement or replacement land as was previously provided. Then finally, with respect to the exemptions in section F, we took out Mills Pond Park.

- It was asked why Mills Pond Park was taken out.

**Mr. Tolces:** With respect to the lands that are not subject to the provisions of this Charter, Mills Pond Park was deleted.

**Mr. Harbin:** Mills Pond Park is leased to the City of Fort Lauderdale and it has deed restrictions within the lease itself.

**Mr. Tolces:** We also specifically excluded section E with respect to annexations from those provisions. Those parks are not subject to the provision regarding annexation. Those are some of the changes that we have made to the proposal.

- A subcommittee member referred to section 8.13 of the proposed proposal, and asked who determines which park uses will be altered.
- Another subcommittee member replied that they assume it would be the Parks Department.
- A subcommittee member suggested adding the language "As determined by the Parks Department."

**Mr. Tolces:** You have the definition of what passive recreational use is in section 3, so if that use or that construction or installation is not going to be consistent with that definition, then it is not going to be allowed. There isn't any specific entity identified that would make that determination.

- A subcommittee member provided examples and worst-case scenarios regarding the issue.

The Chair gave Commissioner Kristin Jacobs the floor.

**Commissioner Jacobs:** Good morning everyone, first I have to thank you for taking this issue up, and I wanted to just speak to the issues of why I thought it was important to bring it forward and change our Charter, which is, in essence, the constitution of the County. As constitutional changes are mandated, and generally getting a little broader, this resolution is getting so specific and I have some concerns about that. In general the County Commission – this seated County Commission did the right thing and made a change to our operating procedures, that should a park change designation it would take a super-majority vote of the County Commission. It is wonderful, and I am really happy that they did that. The problem is – that this Commission and any future Commission would simply be able to change that Ordinance. It does not take a super-majority to change the ordinance and put it back to a simple majority to change the use of a park. That is why I am asking for a change in the Charter that would do exactly that which the Commission already put on us voluntarily –so that the parks don't change use in the future. The concern I have is with some of the language as I went through it and started trying to further add in the language for all the unknowns that may come and go over the years. I am hoping these changes stay for – I think the pressure that the park systems are going to experience are about 20 years and forward from there. When the pressure to start redeveloping and use that open-space for something other than the wasted space that is just sitting there. Some people would think we really need to have these kinds of protections in place for a future point; and in the future there may not be the same list of parks that are passed today; there may be more, there may be less. Hopefully not, but there are other circumstances for which we can't think of now and build into any changes to this ordinance – but for which a future environment may create a loophole and instead of actually protecting parks. My concern is by being so narrowed and focused that we could end up with all kinds of opportunities to skirt the intent of the protectionist language that we are putting on the ballot – or hopefully putting on the ballot.

I would point to the Land Development Code; the Land Development Code seeks to look at all kinds of issues in trying to protect land and growth and direct growth properly. One of the things that the County Commission experienced several years ago was we didn't know that you could count units in the Intracoastal; nobody had ever done it before, no-one. Even though there were units in the Intracoastal to catch. But one very clever attorney looked at it and said, "Gee it doesn't say that you can't," so because that language wasn't there that project went in and increased density and counted units in the Intracoastal and we subsequently went back and fixed that loophole. We don't want – I don't think – to be in a position where future changes to this Charter have to wait multiple years and go through the effort to continue to repair it. So I passed out my memo of suggestions to look at simplifying the whole process down to some very clear and simple language that's unambiguous and also provides for many of the protections that may not be afforded by getting so specific.

Additionally, the issue of the management of our parks, advertising and some of the other day-to-day issues that go on are really in the realm of the management of the parks. I don't think we want to ask the voters to weigh in on regular management issues, which is what some of the changes that are being proposed might actually result in. So, the item you have before you has very simplistic language. I tried to make sure that the ballot language was as clear to the average voter as possible. So in place of the language beginning on the bottom of page 2, the ballot language summary would say – or the title would say *"Preservation of County-owned Parks, Urban Wilderness areas, conservation land, environmentally sensitive lands and open-space properties."* The question would say or read, ***"The Charter currently provides no protection of parks, urban wilderness areas, conservation lands, environmentally sensitive lands and open-space properties located within the County. Shall the Charter be amended to require a majority vote of the County electors to approve the sale, transfer, or change the use of County-owned parks, urban wilderness areas, conservation lands, environmentally sensitive lands, and open-space properties – yes or no?"*** Because it is so simple I think it would pass. I think people would completely understand what it is for. Additionally, I believe it meets the intent of all those who went to the ballot and voted yes in 2000 – in the greatest numbers in this County than any initiative of its type up to that point has passed with the voters. Clearly the voters of Broward County in the 2000 bond referendum were concerned about open-space and wanted to see it preserved for long into the future. I would say that the voters in 1989 who passed the 89-bond referendum were thinking along the same lines, and this change to our Charter would truly mean that our parks were protected in their most simplistic form and the most effective method.

- A subcommittee member explained that the LUSC was trying to make things tight; they wanted to prevent things from happening down the road. They advised that the LUSC's thinking was to be very cautious in trying to cover every possibility.

**Commissioner Jacobs:** I understand that was the direction. I think you guys started out in a very simplistic form and started going in that direction. But I would say to you that you would never be able to anticipate all the things that could go wrong in the future, 20 years from now. There will be someone who will find a way around because the more specific you get, the more opportunity there is for someone to find an opportunity to come up with an idea that's slightly different from the language that is in the Charter. By having it so broad, you in fact accomplish more because you are saying any sale, transfer, or change of use. That is so broad that it covers anything that we may want to do in the future to change the use of our parks and to sell any of our parks for private development would have to come before the full County Commission.

The Chair asked if there were any other comments.

- A subcommittee member commented that there isn't any real debate between Commissioner Jacobs's position and what the LUSC is discussing. He suggested to ask the attorney if the language does what the LUSC is trying to accomplish, and if it does he proposed accepting it and if it doesn't he suggested it should be amended.
- A subcommittee member asked Commissioner Jacobs if she is for the majority vote and if so why.

**Commissioner Jacobs:** I do and that is because just to change the Constitution of the State you don't need 2/3, and typically the County Charter cannot trump the State Constitution. I would think that is kind of heading down the wrong path. If, in fact, the entire County electorate approved a change to this County's Charter to sell a park, then I think that is something we would have to respect. We do it for all other subjects that are out there, and I really thought that it might be going too far to go beyond that which is required by our own Constitution and even by our own Boards – even by this body. To be able to put something on the ballot to change the Charter, your numbers are even less than that.

- A subcommittee member advised that in order to put something in the Charter it requires a 2/3 vote.

**Commissioner Jacobs:** I guess I just kept coming back to the KISS theory, which was to keep it as simple as possible. So that we cover any unintended consequences that – I don't think there is anyone today – and certainly not on the current County Commission - that would disagree with the protection because we already put them there voluntarily on our own. It is the concern about the future, and I only mentioned that because we are starting to see the edges being picked around by Cities now who are required by the Land Development Code to have certain acreage per resident in their cities, but are already falling far short of that. They are now casting about recreational use; the kids have no place to play soccer; the Community has no place to meet and the city has no land for which to give over to these processes and are now looking at the County.

Another project I know that was being looked at was townhouses. Maybe just a little bit on the edge of the park, so if it is happening today, you can see at some point in the future where Broward County 20 or 30 years from now. We would never have thought that it would look like it is today. Who would think that we would spend the money to fill burrow pits that are 60 feet deep and acres wide that would be worth filling in and building on and, in fact, that is what we are doing. I don't think that we can anticipate what this County's needs are going to be that far out in the future. Other than to say, most likely the parks will be picked at more than they are even attempting today.

- A subcommittee member pointed out that the real future problem would be the financial pressure on the Municipalities and the County, which would create the movement to look at the parks, and that is one of the reasons the LUSC prefers strong protection.

**Commissioner Jacobs:** I agree.

- It was stated that all the suggestions are heading in the same direction.
- A subcommittee member explained that the LUSC went through many scenarios and that they are all trying to accomplish the same thing.
- The broader language also has the dark side to it, which is, it could be a debate about the usage that is inconsistent with the Parks' current usage.

**Commissioner Jacobs:** When I look at those kinds of usage, first of all, they are still recreation and they still are park usage. The issue was changing the park's use to some other use that is not park-like at all. When it comes to the management – what you are speaking to is the actual management of the parks. When we had to cut \$90 million out of this year's budget and an estimated \$80 million if this constitutional change occurs or is approved in January;

where we found money was our parks and libraries and we are going to continue to start looking in other areas. Our parks will always suffer because of the natural direction – you have people over here who are going to be losing services, children and seniors and so forth, and then you have parks.

Unfortunately, I have a concern that in the future we may need to find ways in order to save our parks; we may need to have a concession or we may need to have advertising there. There are limited opportunities right now where the County Commission agrees at the majority of where we can and should do advertising and where we shouldn't. Some were very liberal on that point and some were not, but I would say the majority was on the very conservative side about advertising. Moreover, there are all kinds of exceptions existing today in our parks. There is a park, natural land that was purchased in my district that is near an affordable housing project. The affordable housing project was shifted to the back, next to the natural area. We actually shifted it over around the road in front. There is a very disturbed area where there was a lot of dumping going on in this natural area. That natural area will actually have a playground and have some shelters and things like that. Most of our natural areas don't have playgrounds, but it is an exception because of two things: (A) It's a part of almost the jewel around which this economic development and affordable housing is occurring, but also by virtue of its state when we took it over, we were able to purchase it. It is an appropriate use. So there are so many exceptions.

My concern is in the day-to-day management and the year-to-year management of parks and making sure that they're profitable and that we can afford to keep them open, clean, and safe, which is our goal. If we start carving out exceptions in a Charter provision, we don't have the opportunity to go in and fix it very often and now we're ending up where we are tying the hands of both the management of parks and the Commission itself. In making those decisions and I think that's what the elected County Commission directed us to do, is to go take good care of those parks to the extent that they might actually sell them or use them for something other than what the Land Use says that they can be used for. To me that is the greater underlying concern. I think you are right; we are all coming from the same page wanting to protect them, but I see that when we look at the darker side, on the more specific, we are -- I think there are darker side issues there.

- A subcommittee member advised that an exception was added for Helwig Park.
- A subcommittee member added that the proposal was to tie the hands of future County Commissions in order to prevent the misuse of parks.

The Chair called for public comment from the School Board.

The Chair provided an overview of the mass mailing and community outreach by the CRC staff.

**Debby Ross – Planner Facility Management Site and Acquisition – Broward County School Board**

**Ms. Ross:** Good morning, the Growth Management Act and the Interlocal Agreement dictate co-location, and the School Board's concern is that it has been a mutual benefit for the School Board and for Parks for the residents of Broward County. The concern now is that with the proposed changes, that are for the future residents of Broward, is that there may be a doubt as for the provision of co-location. If there's only a park use, the concern is where the co-locations would now be located. In the review of the Growth Management Act and the Interlocal Agreement, the School Board staff has found that it is a violation in the ability to co-locate. We are still reviewing the proposed changes and are willing to participate in future discussions.

- A subcommittee member asked for the definition of co-location.

**Ms. Ross:** The ability to use parks for the provision of parking, the ability for recreational areas, and the ability – sometimes there has been usage where there have been changes in land use in the past.

**Commissioner Jacobs:** What she is telling you is not true.

**Ms. Ross:** If I misstated information inaccurately I apologize. When I was at a municipality, we did have Interlocal Agreements with the School Board; they were for parking, and they were for other uses of similar natures of that sort.

**Commissioner Jacobs:** Well just to say that an Interlocal Agreement is not the same as what the land use dictates as far as co-location is not a goal, and is not a mandate, that you do. I will let our attorney who is very well versed on the land use code speak to the specifics. But, in general, the Land Use Code says that you shall consider co-location and that was meant primarily for governmental facilities that could be co-located with schools. Recently the School Board sent their representative to come talk to the County Commission because he was charged to look at any opportunity anywhere in the County for new school locations. He was told unequivocally by the County Commission that we are not going to be locating any school facilities within our existing parks system, but to speak to legal issues I would like to have Maite Azcoitia address the issue.

The Chair advised that the County Attorney's office has been giving excellent support on these items.

**Commissioner Jacobs:** We are very proud of her; you can't have her.

**Maite Azcoitia, Esq. - Deputy County Attorney**

**Ms. Azcoitia:** If you recall the first time that I appeared before you, we were talking about declaration of restrictive covenants that were placed on urban wilderness areas and park properties. We worked very closely with the School Board at that time because they had the same concern that the Interlocal Agreement in the statute says, that you shall look for co-location opportunities; it does not say that the County Commission would have to allow school facilities on park land. What we worked out with the declaration is, for example, in a park that is an active park they can co-locate their ball field and things like that, but I don't think that the statute's Interlocal agreement mandates that the County Commission allow school facilities such as buildings, portables, things like that on parks or urban wilderness areas.

The Chair advised that he agrees with Ms. Maite; however, if the School Board's attorney has another opinion the subcommittee would like to hear from them. He asked Ms. Ross if her broader message is for there to be flexibility on the County's part in working with the School Board in order to co-locate.

**Ms. Ross:** Yes, thank you for summarizing that so well.

- A subcommittee member asked if there is a difference between co-location and co-use.

**Commissioner Jacobs:** Well I would say there is. The issue of locating physical building and the pressure to do so is exactly why this item needs to be approved by the voters. Co-location means physically moving buildings and co-locating. For example, one of the issues I've been raising since the time I've been on the Commission this language came about as part of the land development code, was where it is appropriate to co-locate and where is it not. In that list industrial sites are included; so maybe a technical institute or a high school might be appropriate in an industrial area, but elementary schools and middle schools, I do not think would be appropriate to co-locate in an industrial area. This language allows that to happen. So when we look at co-locating, it's physically building and joining governmental facilities together and that was actually the intent to try to get opportunities where you could co-exist and create campus-like atmospheres. I don't believe it was ever intended to take away open-space and fill it with buildings.

- A subcommittee member asked for other examples of co-location.

**Commissioner Jacobs:** Crystal Lake would be a great example. That school is near a natural area and the interface from the Science teachers. They have keys to the gate and they can go in there any time with their students. That is a co-use because they are next to each other, but there are no buildings in there.

The Chair called for public comments.

### **Brandon Biederman – Builder’s Association of South Florida**

**Mr. Biederman:** I think that I am just here listening to the dialogue today, and to echo Commissioner Jacobs’s point, as I read your memo of the changes that’s dated 20007-022. At the bottom, it talks about the research that was done about the threshold issue. As you see, to amend the Florida Constitution your attorney points out that you need 2/3 approval in an election in order to oppose a new state tax or fee. The U.S. Constitution – I did a little research - requires a 2/3 vote of each of the Legislative Branches to amend that Constitution. As the Commissioner pointed out earlier, a 60% threshold is required to amend the Florida constitution. So it’s our opinion as well, that probably a majority would be sufficient on this issue, and a 66% threshold just doesn’t flow with the rest of the County Charter or the Florida Constitution requirements or the U.S. constitution requirements.

The Chair called for public comment.

- A subcommittee member advised that all along they did not want to tie the hand of future Commissioners and agrees with Commissioner Jacobs’ proposal.
- Another subcommittee member advised that they are okay with Commissioner Jacobs’ proposal, but are not sure they would want concessions and advertising in the parks.
- A subcommittee member replied that if they have to sell advertising to keep the park open vs. not having the revenue to keep the park open, we would lose everything.
- Some subcommittee members expressed their concern with concessions in parks.
- A subcommittee member asked if an urban wilderness area is a County owned park.

**Ms. Azcoitia:** Yes.

**Commissioner Jacobs:** Yes, but then that would constitute a change in the use and that under this proposal would have to come before the voters. I would say the Land Use Plan also

speaks to adjacent uses; there are other places in the Land Development Code that speak to protection of the parks.

- A subcommittee member advised that the LUSC have to find out what the differences are, and at a future meeting decide to either have strict restrictive or not.
- A subcommittee member stated that they do not want to manage County Parks through the Charter.
- A subcommittee member asked if Commissioner Jacobs' proposal covers parks that may be annexed.
- Another subcommittee member replied no.

**Commissioner Jacobs:** Well, the Charter only speaks to the County to begin with.

- A subcommittee member explained that they are referring to County parks that are within a potentially annexation area which are then turned over to the Cities.

**Commissioner Jacobs:** Well I would say that there are – that's a great question, because there are small community parks, neighborhood parks that the County does not maintain. They go into the City when they go in, and to the point that there are a lot of them all over the County that are in Cities. There are some still out there that remain to be annexed. There has been Cities that have actually complained about the annexation process, because they don't have the money to maintain and operate that park. The City of Fort Lauderdale for example, raised a lot of concern regarding one of the parks that were going in, and they are still not talking about changing its use or selling it. There was concern about who exactly is going to pay for it; maybe there is language that says that, at some point. Then you start getting into the management of parks, which I think is just too specific of a task to be managed through the broader umbrella of a constitution, which is what the Charter is. It should not be that specific to control daily operation and budgetary changes.

- A subcommittee member asked Mr. Tolces if he had seen Commissioner Jacobs' proposal beforehand.

**Mr. Tolces:** No.

- A subcommittee member asked Ms. Azcoitia if she had seen the proposal.

**Ms. Azcoitia:** Yes.

**Commissioner Jacobs:** Maite helped draft it.

- A subcommittee member asked, if the County Commission owns land that has a restrictive covenant on it, can a majority vote of the County Commission release that covenant.

**Commissioner Jacobs:** Maybe the way you get there Richard, is you get there by saying if it was purchased with 1989 or 2000 bond funds, then you are really talking about all that land – and you keep the same language. But whether it's in a City or not – if it was originally purchased with that intent, and the voters' bond dollars, then that shall be preserved.

- A subcommittee member stated that if there is County land that was not purchased with bond funds, it would have restrictions on it; they advised that the LUSC was trying to make it difficult to release those restrictions.

**Ms. Maite:** If I might, I had some email correspondence with David, Sam, and Jacob last week regarding the annexation because I was not here for the meeting where annexation became an issue. I know that there was an issue about whether the County could mandate that a City accept responsibility for maintaining a Park versus the County's responsibility to maintain, we may not be able to maintain neighborhood parks. I went back and looked at the minutes and what I saw was that this Board's motion was to ensure that annexed properties continue to be used as parks. So I provided some substitute language to Jacob, David, and Sam that doesn't deal with the County or the Charter mandating a City take over responsibility or the County taking over responsibility. I simply provided that when properties annex the County, the annexing municipality shall ensure that the property continues to be used for park purposes. If the subcommittee would prefer to say that restrictions are placed on there, that they be required to continue the use for park purposes or something like that, that is fine. But I was trying to get away from the issue of who has maintenance responsibility because I don't think that we can dictate that through Charter.

- A subcommittee member explained the intent of the Land Use subcommittee.

**Ms. Azcoitia:** I think the Commissioner and the Subcommittee's intent is that the parks continue to be used as parks; by putting maintenance responsibility in the Charter you lose that ability for the City and County to negotiate for actual maintenance. I think the intent is that it continues to be used as a park, and then it should provide that the County requires that it continues to be used as a park.

**Mr. Tolces:** The language says that the annexation shall affirmatively provide for change of ownership and perpetual maintenance of all land to be annexed in the municipality. It doesn't mandate whom; it says perpetual maintenance, so I think it is part of the agreement.

**Ms. Azcoitia:** It says the County shall provide, so I think it can be interpreted that the County is going to provide for the maintenance.

**Mr. Tolces:** And to insure the continued operation, the land specifically describes *re-designated* in this article.

**Ms. Azcoitia:** I have no problem with that, I just think that by inserting maintenance in there, and the way it could be read – it could require the County to continue to maintain it, which could be a violation. My suggestion to Jacob and David was, “Why are we messing with maintenance,” if the intent is that it continues to be used as a park, they require it to be continuously used as a park.

The Chair advised that he is not concerned with the maintenance of the park, as long as it continues to be a park. He asked if there were any questions or comments.

- A subcommittee member suggested not adding maintenance in the proposal.

**Ms. Azcoitia:** I had suggested it was for the other language, “In connection with the future annexation of land by municipality and the annexed municipalities shall assure that any land specifically described or designated in this article shall continue to be used for the purposes set forth here.”

- A subcommittee member suggested that Mr. Tolces review Commissioner Jacobs' memo.

**Mr. Tolces:** Yes, we have the email and we will coordinate with the language as well.

- A subcommittee member asked which would be easier to get around, a simple proposal or a broader proposal.

**Mr. Tolces:** I don't know if it is a question of which is easier, because ultimately it is going to be up to a Judge to decide as far as what the Charter provision provides for as compared to what the proposal is. Certainly the Commissioner's proposal is more general and could cover a wider span in a simpler paragraph. It depends upon the circumstance and the facts as to what would be easy or not. You could find all kinds of good attorney's to make good arguments as to why

this provision that the Commissioner proposes shouldn't apply to what they are doing, and that same attorney can find the exact same argument with respect to the proposal that you've already drafted.

**Mr. Tolces:** I think what Dr. Rosenbaum said with respect to balancing protection vs. management, if you are looking at management and controlling management, so that the County Commission cannot change something by an Ordinance, then you may have to be more specific in the Charter provision so that it would require another vote.

- A subcommittee member advised that there is a difference between what the LUSC has been working on and what Commissioner Jacobs is requesting. However, they would like to pick apart Commissioner Jacobs' proposal.

**Commissioner Jacobs:** I think that they're two separate issues at hand here. One is that in which the parks are managed in the future, and how and what the future management needs may be. The other is the essence of protecting them in perpetuity as open-space and parks, and I think to the purpose that lands were purchased by the voter – that is what this item does, to protect them and their existing use. They can't be sold; they can't be transferred, and from those 30 thousand great analogies – that covers everything that could possibly fall under that umbrella as protected. It doesn't speak to the daily management of the parks, because that situation can change from year to year, and because it cost over ½ million dollars to put one question on the ballot. I would say that's not the best way to manage our parks, and that management of the parks really needs to stay under the jurisdiction of the County Commission, and leave that there. I agree with the issues of annexation: that those additional protections for the way that those lands were purchased should run with the land and should stay wherever they go whether they're annexed or not and try to include that. I will caution you against possible failure of an item like this on the ballot. If there are people who feel that certain advertising is okay, and looking at some of the blogs that were in the Sun Sentinel after the County Commission had a discussion about advertising and the editorials, there were people all over the map about whether they thought advertising was okay or not. I would hate to think that something as important as the basic presumption of protecting our land could get lost in an argument over whether you could have a water theme park or butterfly world, or someone's name on a score board of a large park. Those items are secondary to the item of the need to protect them in the future.

- A subcommittee member asked Commissioner Jacobs how she feels about the release of all covenants.

**Commissioner Jacobs:** I don't think that they should be released.

- A subcommittee member asked Commissioner Jacobs if she feels that the covenants should be released by just a vote of the County Commission.

**Commissioner Jacobs:** If the change that is contemplated happened in the Charter, then it is just for the protections that the Boards that preceded us has put in place. The truth is that any elected official is always pressured by their constituency and the editorials, as much as they want to think that we are completely independent, and we do whatever we want despite what everybody thinks. That is simply not true, the pressure from the public that something is protected in the Charter, that a Commission would then go and step outside and thumb their nose and make those changes, you would have those numbers on the Commission to do that.

The other caution I would have is naming specific parks, what we call a park today could have a name change in the future. Once the name has been changed and sat in place for 10 or 15 years and everyone knows it is that name, I would think that you would have a great legal argument. So in looking at parks – if you did it as a secondary question, resist the temptations and name them out right – there may be additional parks purchased that would not be on this Charter change and then would have to require you to come back.

- A subcommittee member advised that many places are going through dual referendums, which is that Charter changes that affect the cities can't be approved unless they are approved by majority of the County Commission and the majority of the people in the City.
- A subcommittee member suggested that Mr. Tolces do a legal analysis.

**Mr. Tolces:** Do you want us to compare the Commissioner's proposal with what we've already drafted as far as what you provided for in your draft, which may not be covered in her draft and suggestions that may be included in her draft also and harmonize the two.

**Ms. Azcoitia:** To clarify the Chair's question we can also change the language slightly to say County-owned properties classified in the Land Use Plan or urban wilderness; things to tighten it up a little.

The Chair called for public comment.

**Mr. Biederman:** I was just going to make a quick suggestion because I heard the Chair mention earlier that the County provided to this subcommittee a list of the urban wilderness

areas, conservation lands, environmentally sensitive lands, and open-space properties. Open-space properties are now an addition to what's been discussed.

- A subcommittee member asked what an open-space property is.

**Commissioner Jacobs:** Open-space is under the 2000 Bond, it was set in three categories, Conservation, Green-space, and Open-space. Open was that land which could be created that was open-space, so for example, maybe it was two warehouses and you purchased them knocked them down and added them to another park or created a park, or just an open area where there is just nothing; it's passive creation. So, that is considered open-space and in fact, that category – while we put the greatest amount of money in the conservation land, it turned out to be among the 31 Cities, that was the most popular. I think we are on round seven at going back out and purchasing – it is a competitive process. There are now a greater number of lands of the open-space category than there were in the first two.

The Chair advised the subcommittee that at a previous meeting it was motioned to have a 2/3 vote, he asked if any of the subcommittee members would like to change that.

The Chair asked if there were any other public comments.

**Ms. Azcoitia:** I was just going to suggest covering the properties of the transfer to the Cities. David and I could work on adding language that – by the way, if they are under the Bond Program they're already required 4/5.

- A subcommittee member advised that they are not concerned with the parks that are not under that Bond Program that may have been transferred to the City over the years.

**Ms. Azcoitia:** I have some concerns whether it being a contract issue or if the city accepts the property or creates this property with a restrictive covenant or something like that. With a super-majority and it provided for simple majority, I don't know if we can come back now and pose a 4/5.

- A subcommittee member advised that the majority of the documents they have seen do not require a majority vote of the County Commission.

#### **IV. Public Comment**

None

### **Next Meeting**

November 16<sup>th</sup>, 2007 at 8:30 a.m. Broward County Governmental Center, Room 430.

### **V. Adjournment**

There being no further discussion or comments the meeting was adjourned at 9:54 a.m. The minutes of this meeting are recorded on CRC-LUSC CD #11.02.07 (BCGV CTR).