

**Summary of Discussion
Broward County Charter Review Commission
Land Use Subcommittee
Friday, May 4, 2007- 8:00 AM - 10:00 AM
115 S. Andrews Avenue, Room 430
Fort Lauderdale, FL 33301**

Members Present:

Richard Weiss, Esq., Chair
Commissioner Hayward Benson, Vice Chair
Patricia Good
Mark Ketcham

Members Absent:

Joseph Maus, Esq.
Robert Penezic, Esq.
Dr. Irv Rosenbaum

Others Attending:

Elliot Auerhahn, Broward County Urban Planning
Angelo Castillo, Chair, Broward County Planning Council
Chedley Etienne, Administrative Assistant, CRC
Ellen Feld, Esq., Water Management Districts
Yolanda Grooms, Administrative Specialist, CRC
Maria Gross, Assistant Director, CRC
Phyllis A. King, Transcriber, PKING Consulting
Henry Sniezek, Director, Broward County Planning Council
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 Committee 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, May 4, 2007 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

I Call to Order/Roll Call

The Chair, Mr. Weiss, called the meeting to order at 8:11 a.m. and noted for the record that a quorum was soon expected. He thanked the Chairman, Mr. Angelo Castillo and Executive Director, Mr. Henry Sniezek of the Broward County Planning Council for taking the time to appear. He advised Mr. Sniezek of the format for LUSC presenters. Mr. Sniezek offered to wait for the benefit of the other members and until a quorum was met.

Upon the arrival of Ms. Good, the Chair gave the presenters, Mr. Angelo Castillo and Mr. Henry Sniezek, the floor.

(No official role was requested by the Chair for this meeting).

II Approval of Summary of Discussion for Meeting of April 20, 2007

Approval of the April 20, 2007 Summary of Discussion was tabled until the next meeting of the LUSC.

III Presentation by Angelo Castillo, Chair, Broward County Planning Council and Henry Sniezek, Executive Director, Broward County Planning Council

Mr. Castillo advised that he is a Commissioner of the City of Pembroke Pines and Chair of Broward County Planning Council (BCPC), and former member of a previous Broward County Charter Review Commission. He informed the dais that he has been in government for 25 years. Mr. Castillo then proceeded to provide an overview of his thoughts behind the 1st Charter. He stated that the 1974 Charter was passed to help better organize Fire Rescue and Land Use. Prior to the 1974 Charter, the County was experiencing a lot of road closures and discord between municipalities with respect to development impacts which affected the ability of Fire Rescue and basic social services occurring from one end of the County to the other. He explained that it was conceived that under the original Charter, the County would have Land Use authority, but would not get involved in zoning which was an issue that was left to the Cities, respecting home rule. Mr. Castillo explained that the County's role in Land Use would be from a coordinative and regional perspective; what evolved from that was the concept of the Joint Consolidated Planning. He advised that each City in Broward County has a Consolidated Plan that fits exactly with the Broward County Plan, and that both plans are one in the same;

therefore, the standards are the same, both at the County and City level (e.g. traffic, environmental, roads, density, similar issues with affordable housing, etc.).

Mr. Castillo advised that the Planning Council is an Advisory Board to the County Commission; it reviews the application and confirms if the application meets the standards of the Land Use Plan requirements of the Joint Consolidated Plan. He stated that frequently the Board finds that the standards are not met; therefore, the plans must be amended in order to meet the requirements. The applicants are aware that the standards need to be met and know the application is insufficient but wants the plans approved anyway, irrespective of the requirements. Mr. Castillo explained that this is troublesome to him. He stated that the Planning Council may recommend to the Charter that the County play an increased role in mediating these concerns when they arise in order to ensure that Cities can get along together better. Mr. Castillo added that for almost 30 years the Planning Council has added value to the Land Use strategies of Broward County.

Mr. Castillo suggested questions that the LUSC should ask during their deliberations:

1. Which do you think in the long run will promote Affordable Housing in Broward County to a better degree? County involvement regionally or our 32 Cities doing whatever they want.
2. Which is going to better protect the ability to utilize roadways without major obstructions? 32 Cities doing whatever they want or 32 Cities coming together, agreeing on Standards and implementing those Standards together.
3. Which is going to protect the environment better?
4. Which is going to make sure that the Development Standards are there so that we can continue to enjoy our setbacks and landscaping responsibilities?
5. Which standard will keep 32 Cities with literally hundreds of borders in peaceful harmony? The County cooperating or Cities battling one another.

Mr. Castillo advised the dais that a vast majority of the Cities support the Charter, but there is a handful that do not. He then suggested that the CRC inquire as to why they do not.

The Chair asked Mr. Castillo why if *The City of Hollywood* is applying the same standards, doing the best job that it can, why he felt they are coming to the BCPC not meeting the standards? Mr. Castillo explained this it is a process where until the end is reached, the actual value and eventuality of it is not seen. He advised that developers try and some cities permit them to get away with as much as they can until the very last moment. He advised that the Regional Planning Council has tried to be understanding but holds firm to its commitment. He explained that sometimes until the very last moment, when a developer is facing denial do you see a commitment from them; the vast majority of other applications come through straight- forwardly. But when they don't, they meet the rigor of a professional staff that advises them that it just does not meet the standard. Mr. Castillo advised that the BCPC holds firm when it comes to this, and unfortunately at times it means an application has to be declined.

Ms. Good asked Mr. Castillo with respect to his city and small developments how he sees the role of the RPC when those cities meet most of the elemental requirements. Mr. Castillo advised that Pembroke Pines does not submit projects unless all elements are met. He advised that other cities have had issues with the standards themselves which is very legitimate. He explained that the BCPC recently invited municipalities to come forward and offer advice for improvements to the Land Use Plan. He advised that hundreds of suggestions were made, which they plan to review. He reminded the dais that the Land Use Process is an evolving one as he stated it should be in order to confront the issues that our cities and the County are faced with. He advised that one of the suggestions is that we need different zones for different issues (i.e. that the standards that apply on the beach should not apply in Weston). However, these issues have not been suggested as of yet; instead what the BCPC has is a commitment from the cities and County through an ordinance where they have jointly agreed to the current set of standards, yet they submit applications that sometimes do not meet the standards. He explained that the BCPC's role is to catch that and work with it.

Mr. Good also inquired as to affordable housing components and different elements that may cause other elements to be reduced and modified, and asked if the Planning Council takes these types of issues into consideration. Mr. Castillo replied "always" and explained that the BCPC looks to work with the cities to help them and ultimately the developers to come in line with all requirements. He explained that with affordable housing, municipalities have been provided with a *laundry list* of how to do affordable housing, including offering trade-offs (e.g. fewer market units for a bus). Mr. Castillo explained that they always work with the cities, but every so often they confront a desire to not comply. He explained that when the BCPC holds firm, sometimes the response is a suggestion to potentially not have a Planning Council which is a tactic which he suggests should be ignored.

Mr. Benson referred to **Appendix, Article VIII Land Use Planning – Section 8.05 Powers and Function – B through E of the Broward County Planning Council Member Handbook**. He asked Mr. Castillo which position, based upon B through E, would be the better position for the BCPC to take, the position of a *mediator* or the position of *compliance*.

Mr. Castillo replied that he believes that the BCPC employs a bit of each of roles. He advised that the Charter requires the BCPC to be stewards of the Land Use Process and to safeguard it; however, he explained that circumstance has caused the BCPC to at times be mediators and at times help the process along to a successful outcome. He stated that he believes that the BCPC has balanced those responsibilities elegantly over the course of time: although they are not a court, they are a council where people can come to discuss issues. He explained that while there are standards and have a duty to uphold those standards they also want the cities to succeed and the projects to work because it is the livelihood of the County to advance.

Mr. Benson then inquired if the language presently in the Charter is adequate to continue the current role of the BCPC or if there should be amendments to the language and if any, could Mr. Castillo provide recommendations of language amendments.

Mr. Castillo explained that the BCPC has yet to bring forward an amendment that has not yet been adopted by the full Council. He advised that this amendment involves strengthening the County's review of municipal road closures, where one city objects to the road closing for fear of another city affecting them and their ability to generate Health and Safety responses, etc... Therefore, if another city objects because they are an interested party, in effect to that municipal road closing, that the city closing the road should present for review, show cause of how the public services will function, etc. He then advised that there were two recent confrontations in Broward County in addition to a history going back and that the BCPC believes the planned manner of presentation to the Charter is very narrowly defined. He stated that if it receives the BCPC approval, it will allow Cities their home rule authority to close roads, but also to show cause if an affecting neighboring city has an objection. Mr. Castillo stated that ultimately through the legal process as cities, they may engage each other in law suits; however, there are other mediation services available under statute that are available to cities. He stated that he does not see why the BCPC could not begin to play a larger role since they are currently doing so by trying to accommodate through the interchange of testimony and points of view, hoping to make projects work on a regional basis. He then stated that this has not been discussed on the Council; therefore, he could not speak on their behalf regarding the issue, but he *personally* would not object to that kind of language.

Mr. Benson then asked Mr. Castillo to explain the MPO / BCPC relationship.

Mr. Castillo reminded the dais that the MPO is a separate group from the BCPC. He explained that Sunshine does not apply to the BCPC. He explained that so often the inability to communicate is a barrier to good government. He explained that BCPC and MPO staffs coordinate closely; that both the MPO and BCPC contemplate joint meetings. In an effort to be on the same page philosophically, and how to move forward, they have plans for a meeting on Transit Oriented Concurrency and Transit Oriented Plans

Mr. Castillo then gave Mr. Sniezek the floor. ***[End of Speaker]***

Presentation by Sniezek, Executive Director, Broward County Planning Council

Mr. Sniezek shared his perspective on what is done at the County level that is not done at the city level. Based on his experience, some cities generally do not get into the regional level analysis that the County does, as it is just not a city level concern. He stated that City Traffic Analysis sometimes does not go beyond the immediate borders of the amendment site; however, the BCPC looks at things as they go out into other communities. He informed the dais that some cities just accept what the applicants submit because they lack the manpower to independently produce data analysis. He stated that Traffic Analyst and Engineers tend to produce information to please their client; therefore, a Traffic Analysis can go any way you want. Conversely, the BCPC provides an independent look at things especially Traffic Analysis. He then added that he knows that the cities are doing the best job that they can.

Mr. Sniezek stated with regard to duplication of effort, his overview will explain that the BCPC has identified some duplication of effort and that the Land Use Plan needs to be amended to address this. He advised that a regional level analysis is still very important. He also advised that the County Land Use Plan is tied to the MPO Plans (e.g. Traffic Analysis is tied to the MPO's Long Range Plan) so the BCPC is obliged to use it. He stated that if there is a Traffic Plan submitted by a city or applicant, the MPO staff looks at this because they can provide an unbiased and fair review.

Mr. Sniezek's presentation addressed the BCPC which included a general background and overview with handouts entitled ***Broward County Planning Council Member Handbook and Presentation Regarding Broward County Planning Council May 4, 2007 to the Broward County Charter Review Commission Land Use Subcommittee presented by Broward County Planning Council Staff.*** He advised that the County adopted the Charter in 1974 with a vote of 57% to 43% which included Land Use Plan provisions that established the Broward

County Planning Council as the body that implements the Charter revisions. He advised that the BCPC consists of 20 Council members consisting of 2 members appointed by each of the 9 County Commissioners (1 being an Elected Official); the County Commission appoints one member to serve per year, and then the School Board appoints one member. Mr. Castillo added that the School Board's role is to ensure there are enough school seats for a development; which is a role that does not occur anywhere else in the State.

A brief discussion ensued regarding the School Board Interlocal Agreement to provide commentary at the municipal level.

Mr. Sniezek advised that the Planning Council has a voting School Board member on the Board. He commented that the BCPC term is in line with the term of the Commissioner that appoints them, which is a 4- year term, and they lose their appointment if the County Commission changes. He advised that they are independent with no term limit and they cannot be removed without going through a full County Commission. He informed the dais that the Planning Council Board Members are volunteers with a staff of 11 budgeted positions of which 6 are Planners; the County hires an attorney. He added that they are independent of County Administration and that the Planning Council directly hires two positions, the Executive Director and the Council Attorney. The other staff is hired through the Executive Director consistent with County government procedures, but reports directly to the Planning Council. He advised that the BCPC's budget is approximately \$1 million.

He advised that there are two parts of the Broward County Land Use Plan which is a Legal document; within this document there are three main parts Goals, Objectives, and Policies. He added that there are *shall policies* and *should policies*, and explained how these policies affect the Comprehensive Land Use Plan. He explained that implementation provisions are utilized, such as the definition of Affordable Housing, and each of the various Land Use Categories have permitted uses. He explained that the Land Use Plan has **flexibility rules** which allow cities to deal with city-level issues without going through the County process. He explained that for residential issues, the County Plan has flexibility and reserve units built in, which are basically extra units that the cities can use to apply within their flex zones that allow the city the ability to rearrange densities without going through the County process of getting approval. Mr. Sniezek added that this has worked well over the years. He also stated that there are also different flex rules for non-residential, such as there being a limited amount of land designated residential to be used for neighborhood retail or office uses, and a rule for designated industrial to be converted to commercial uses within limits.

A brief discussion ensued relevant to Flexibility Units during which Mr. Sniezek advised that the County is divided into 125 Flex Zones of which some cities have 10 – 20 zones. Ms. Good requested an overview of the maxed out flex zones regionally. **Mr. Sniezek advised the dais that he would provide the overview to staff.**

Mr. Sniezek explained how some cities have a lot of residential flex and some do not. Ms. Good inquired of plans to rework flex zones. Mr. Sniezek advised that requests have been coming in and some cities have shown interest in looking at flexibility as a way to increase it, but he advised that some cities do not like flexibility and don't think it should exist at all, advising the both sides. Ms. Good then asked if there is a requirement to review them. Mr. Sniezek advised that there is no such charge imposed.

Mr. Sniezek displayed a color-coded Land Use Map of Fort Lauderdale which he advised was not County-wide (the map displayed colors of **yellow = single-family neighborhood, Red = Commercial, Purple = Industrial, Blue = Downtown/Regional Activity Center etc.** He stated that this map is similar to a zoning map, but more of a policy map.

The Chair asked Mr. Sniezek to explain what authority the Planning Council has which is not subject to review by the County Commission vs. its power with review. Mr. Sniezek advised that he plans to touch on this subject later in his presentation. He continued to explain that the Land Use Plan power is an advisory one. He explained that the County Commission relies on the Planning Council recommendations. He suggested that the dais consider the quote from the 1977 Broward County Land Use Plan and then ask themselves if it is still relevant today the quote is as follows:..."*the electorate of Broward County expressed its disenchantment with the rapid pace and manner of development throughout the County. Roads, water and sewer facilities, as well as other service-delivery systems, were not keeping pace with the great number of dwelling units coming into the County inventory. The regional uncoordinated and unmanaged growth which was permitted to occur alarmed the citizens and some concerned elected officials to an unprecedented degree.*" Mr. Sniezek advised the dais that Broward County is larger than 13 States.

He then explained that the BCPC has authority over the Municipal Land Use Plan re-certifications, which are basically a ministerial function, whereby each time a municipality changes its Land Use Plan text or map, per the Charter, it must go through the Planning Council for certification or re-certification. He explained that this also includes all new Land Use Plans, as well, whereby the BCPC will review it for compliance with the County Land Use Plan and if so the Planning Council will certify it.

Mr. Sniezek advised that one of the roles of the Planning Council that is often overlooked is the oversight of the County-wide Traffic Ways Plan. He then showed the dais a map of the 1960's ROW width plans for each road throughout the County.

The Chair asked why the BCPC has absolute authority for traffic ways but not for other issues. Mr. Sniezek explained that this was a decision coordinated between the FDOT, cities, and the County Engineering Division who felt that the Planning Council was the appropriate agency to deal with the ROW issues.

Mr. Benson asked what amendments are expected to deal with the increased traffic, if major housing developments occur on Oakland Park Blvd as a result of the development. Mr. Sniezek advised that the BCPC would first look at the MPO 20/30 Plan to see if the road will handle the traffic. If it shows to be sufficient then the project goes forward. He explained that if it will deteriorate the level of service or make a bad situation even worse, the cities will then propose mitigation for it depending upon the size of the impact.

He then spoke on the Agency Reviews which is a change consistency and roll out to cities. He advised that the staff receives letters from cities; they sit on the MPO Technical Coordinating Committee, Water Advisory Board, and SR 7 Collaborative Board.

Mr. Sniezek addressed BCPC Staff Observations.

Responding to a question from Ms. Good, Mr. Sniezek replied that Small Scale amendments do not go through the BCPC.

A discussion ensued regarding regional impact vs. local impact and why they should go before the BCPC. Ms. Good stated that municipalities have continuously raised the question of "Should all these land use proposals be going before the Planning Council" and some municipalities are not looking at the regional impact. She then asked if there is a difference of opinion as to what that is. She suggested that maybe the criterion is what needs to be looked at.

Mr. Castillo interjected that the County's Land Use Processes that are indicated before the Cities Land Use processes do not conflict. Therefore, the standards that the cities have are no different from the standards that the County has. He explained that the regional impacts are in there and have already been adopted by the cities. He explained for them to disagree is to disagree with their own ordinance. Mr. Castillo continued to explain that the BCPC is in the process of giving the cities the opportunity to come forward with ideas to amend the Plan which

is a living breathing document that is constantly evolving. He explained that through reviewing what has been submitted, the items to which Ms. Good makes reference have not been an issue. He explained that the statements have been more along the lines of fringe issues. **Mr. Castillo then advised that his office will wrap up those comments submitted and provide them to the dais.**

Ms. Good asked for further clarification with regard to Mr. Sniezek's statement of limited flex in municipalities. Mr. Sniezek explained that some cities did not have a lot of flex to begin with but those with limited flex are those who have used it up. He elaborated and advised that cities who had limited flex to begin with is something that should be looked at; that it should probably be addressed through Land Use Plan change, rather than through the Charter. After a brief discussion relevant to flex zones issues, Ms. Good explained that some of the infrastructure has been there for many years and needs to be further expanded. Some are on the Eastern fringes of the County who want to redevelop, and are maxed out as far as density, etc. She suggested that maybe this is where there may be some friction. Mr. Sniezek advised that this is possible, but he believes that the Western cities don't have as much flex, and the Eastern Cities use a net density rather than a gross density; they have a lot of residential flex which they have used.

Mr. Castillo added that it is an opportunity to propose a total change / departure from their current consolidated plan, and then show how it works through an amendment. Mr. Sniezek commented that there is an alternative way of doing flex, where a city can collapse their flex zones into one big flex zone which can be accomplished by describing which areas would no longer be flex areas, and explaining the exact area where the flex will be used as one big consolidated flex. Mr. Sniezek advised that the City of Oakland Park has done this.

The Chair asked if there has been much debate with regard to regional impact and if they are exempt from review. Mr. Sniezek explained that the Chair is correct; however, they are not exempt. The Chair then asked Mr. Sniezek if there is a line that can be drawn in terms of determining what needs to go to the BCPC, and what does not, that could be logical and comprehensible. Mr. Sniezek advised that through the process which has already begun, that fairly clear rules could be created, as what he suggests would be a *Small Scale Amendment*.

The Chair explained the development of regional impact and meeting criteria to the dais. Mr. Sniezek advised that most of the amendments received by the BCPC, in his opinion, **do have regional impacts.**

The Chair informed the dais to the extent that there is dissatisfaction with the current situation and based upon what he is hearing, that he is not sure if there is an issue that needs to be addressed or not. He questioned if there is dissatisfaction, is it small and clearly neighborhood. Mr. Sniezek advised that he thinks it is a time and expense issue.

The Chair then advised that he does not believe the League of Cities has come out with a position that there is something that needs to be addressed.

Mr. Castillo advised that he have great regard and respect for the League of Cities, he quoted that they have no right to speak for Broward cities on the position of Land Use. He advised that they have assumed this responsibility as a club and the County has chosen to give them the status of an equal negotiator. He added that municipalities speak for themselves and do not require an intermediary to communicate their policy positions of any kind nor have cities at any time requested that League of Cities do it. Mr. Castillo advised that the City of Pembroke Pines is very happy with the Planning Council and voted to say so. He added that he is aware that other cities feel the same way and suggested the dais contact the other cities to find out their position.

Ms. West asked how public Input is handled in terms of the Planning Council. Mr. Castillo advised that public hearings are held at the Planning Council and extensive public input is taken at the time. Following a brief discussion relevant to public notification/ public participation, Mr. Sniezek advised that the State and RPC are more limited; the County Plan is closer to the grass-roots. He advised that the regional and State level do not hold public hearings.

Mr. Sniezek returned to the Flex-rules rationale that he feels is sound because it gives the cities a chance to address local issues without having to go through the County process. He suggested that it be retained and strengthened in some way. He explained that the County does have the real ability to enact County-wide policy and apply it, and they can actually deny development which does not happen very often. The cities actually have the strongest case to say no to something, but the County provisions on the basis of regional impacts, also have the ability to say no. He explained that usually there is mitigation and compromise.

A discussion ensued with regard to the extreme western border of Broward County and where the actual County line ends.

Mr. Benson inquired about Section 8.10 of the Charter dealing with unincorporated areas, stating that he is concerned because the City of Lauderhill has recently annexed 3 areas into its corporate boundaries. He asked what the Planning Council would do in its review for

implementing the provision. Mr. Sniezek advised that the unincorporated areas are like a separate city in a Land Use Plan and are usually not controversial; that it is usually just a process of officially including the areas that used to be unincorporated into the City's Plan and the Planning Council to see it.

Mr. Benson inquired if the County at any time will address the service delivery enjoyed by the unincorporated area. Mr. Sniezek advised that the Planning Council does not get into this component. A discussion ensued relative to nomenclature and if this works out the same. Mr. Sniezek advised that the Parks requirement would be checked to ensure the cities are meeting the Parks requirement. Mr. Sniezek then advised that the review also includes a State review which is not a function of the Planning Council.

Mr. Tolces explained that typically there would be an Interlocal Agreement between the County and the city that will identify the services. Mr. Sniezek explained that this is not a function of the BCPC's approval process.

Mr. Castillo suggested that maybe some of the review should include life safety since the Charter does not currently address them. Mr. Benson agreed.

The Chair thanked the speakers for their presentations.

The Chair asked the dais if they wanted to have a meeting without any speakers in order to allow the dais the opportunity to discuss what has been learned thus far and decide where they are going.

The dais agreed.

The Chair asked Ms. West to check the schedules of the dais for vacations.

The Chair advised that the approval of the minutes from April 20, 2007 will be tabled until the next meeting.

IV Preliminary Categorization of Issues (for discussion and re-evaluation)

V Review / Discuss Memo Regarding Growth Management Pilot Program

None

VI Public Comment

None

VII Adjournment

There being no further discussion and no public comment the meeting was adjourned at 10:06 am. The minutes of this meeting are recorded on CRC-LUSC CD # 5.04.07 (BCGV CTR)