

MINUTES

BROWARD COUNTY PLANNING COUNCIL

August 24, 2017

MEMBERS Mayor Daniel J. Stermer, Chair
PRESENT: Thomas H. DiGiorgio, Jr., Vice Chair
Brion Blackwelder
Commissioner Richard Blattner
Commissioner Felicia Brunson, via telephone
Mayor Bill Ganz
Commissioner Michelle J. Gomez
Mary D. Graham
Richard Grosso
David Rosenof
Richard Rosenzweig
Mayor Michael J. Ryan
Mayor Jack Seiler
Commissioner Beverly Williams

MEMBERS Commissioner Angelo Castillo
ABSENT: School Board Member Patricia Good, Secretary
Commissioner Michael Udine

ALSO Barbara Boy, Executive Director
PRESENT: Andy Maurodis, Legal Counsel
Nancy Cavender, The Laws Group

A meeting of the Broward County Planning Council, Broward County, Florida, was held in Room 422 of the Government Center, Fort Lauderdale, Florida, at 10:00 a.m., Thursday, August 24, 2017.

(The following is a near-verbatim transcript of the meeting.)

CALL TO ORDER:

Chair Daniel Stermer called the meeting to order.

CHAIR STERMER: Good morning, everybody. And I'd like to call to order the August 24th, 2017 meeting of the Broward County Planning Council.

ROLL CALL:

CHAIR STERMER: Ms. Cavender, can you please call the roll.

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THE REPORTER: Mr. Brion Blackwelder.

MR. BLACKWELDER: Here.

THE REPORTER: Commissioner Richard Blattner.

COMMISSIONER BLATTNER: Here.

THE REPORTER: Commissioner Felicia Brunson.

COMMISSIONER BRUNSON: Here.

THE REPORTER: Commissioner Angelo Castillo. Mr. Thomas H. DiGiorgio, Jr.

MR. DIGIORGIO: Here.

THE REPORTER: Mayor Bill Ganz.

MAYOR GANZ: Here.

THE REPORTER: Commissioner Michelle J. Gomez.

COMMISSIONER GOMEZ: Good morning.

THE REPORTER: School Board Member Patricia Good. Ms. Mary D. Graham.

MS. GRAHAM: Here.

THE REPORTER: Mr. Richard Grosso.

MR. GROSSO: Here.

THE REPORTER: Mr. David Rosenof. Mr. Richard Rosenzweig.

MR. ROSENZWEIG: Here.

THE REPORTER: Mayor Michal J. Ryan.

MAYOR RYAN: Present.

THE REPORTER: Mayor Jack Seiler. Commissioner Michael Udine. Commissioner Beverly Williams.

COMMISSIONER WILLIAMS: Here.

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THE REPORTER: Mayor Daniel J. Stermer, Chair.

CHAIR STERMER: Here. Good morning, everybody, and thank you for making your way here through the nasty weather on the east side of the County. Appreciate it.

PLEDGE OF ALLEGIANCE:

CHAIR STERMER: If we could all please stand for the Pledge of Allegiance, Ms. Cavender's going to lead us this morning.

(THE PLEDGE OF ALLEGIANCE WAS LED BY NANCY CAVENDER.)

CHAIR STERMER: Thank you.

CONSENT AGENDA

AGENDA ITEM C-1 - APPROVAL OF FINAL AGENDA FOR AUGUST 24, 2016

AGENDA ITEM C-2 - AUGUST 2017 PLAT REVIEWS FOR TRAFFICWAYS PLAN COMPLIANCE

AGENDA ITEM C-3 - APPROVAL OF MINUTES OF MAY 25, 2017 AND JUNE 22, 2017

AGENDA ITEM C-4 - EXCUSED ABSENCES

CHAIR STERMER: We have before us the Consent Agenda. We have excused absence requests from Commissioner Castillo, from School Board Member Good, and from County Commissioner Udine. Is there anybody else, Ms. Blake Boy?

MS. BOY: No. I just got a text from Mayor Seiler about six or eight minutes ago, and he said he would be here in 20 minutes.

CHAIR STERMER: Okay.

MS. BOY: Okay.

CHAIR STERMER: Is there any item to be pulled from the Consent Agenda, or is there a motion with regard to the Consent Agenda including the requests for excused absences?

MR. DIGIORGIO: I'll **move** the Consent Agenda.

CHAIR STERMER: It's been moved by Vice Chair DiGiorgio.

MAYOR RYAN: Second.

CHAIR STERMER: Seconded by Mayor Ryan. Any further discussion? All those in

favor, signify by saying aye. All those opposed? The Consent Agenda passes unanimously.

VOTE PASSES UNANIMOUSLY.

REGULAR AGENDA

AGENDA ITEM R-1 - AFFORDABLE HOUSING WORKSHOP

CHAIR STERMER: We are now up to the Regular Agenda. Madam Executive Director.

MS. BOY: Hi. Sorry. I just actually was looking for Mr. Rosenof's placard, name, because he's supposed to be here, too, and he actually also text me that he was running late.

CHAIR STERMER: Okay.

MS. BOY: Okay. Thanks. Sorry. I just got distracted by that.

CHAIR STERMER: No worries.

MS. BOY: Item -- we're on Item R-1?

CHAIR STERMER: R-1.

MS. BOY: The affordable housing workshop. As you may recall, in May, Mayor Stermer, on your behalf, sent out correspondence to the League of Cities, the County Commission, and then we also forwarded the letter to every elected official for every municipality in Broward County, an invitation to continue the dialog regarding affordable housing.

We tried over the summer to come up with some workshop dates, but we were unable to get a date that we could get more than seven Planning Council members available. So I talked to Mayor Stermer, over the summer, and said let's -- he said, you know, let's put this on the agenda for August to bring up again and have a discussion with the Planning Council about how they want to pursue this, because a couple things, which I think Mayor Stermer's going to tell you about, may have changed since we sent out that letter.

CHAIR STERMER: Since we first -- and we've been discussing the issue of affordable housing for a number of years, but there's also been -- I don't want to say in parallel, but tracking at the same time, County Commissioner Rich has been having a dialog and a variety of meetings with regard to affordable housing.

What I'd like -- and originally when we were looking at dates, the County Administrator

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suggested that it be after budget season, October/November. So what I'm going to do is actually reach out to Commissioner Rich to sort of say -- because she's got a number of folks that are involved in her efforts, and her efforts have been focused, in great measure, on the funding side. But what I'd like to try to do is I'm going to reach out to County Commissioner Rich and see how we can all incorporate into one conversation, that may have different subgroups in it, but having a fractured conversation about it will not accomplish what we have been saying we want to accomplish.

So just to let everybody know what I'm going to do is reach out to the County Commissioner and say, hey, let's get together a -- everybody, the proverbial everybody, and have the conversation. That's at least my intention. I intend to reach out to her in the coming week to do so, and then we'll start to figure out some dates, and the Executive Director will reach out to everybody. Commissioner Gomez.

COMMISSIONER GOMEZ: Forgive me if this is not appropriate here. I have the pleasure of serving on the Broward County Affordable Housing Committee, and we did meet last night. We met a couple times over the summer. And our next meeting is September 24th, whatever that Wednesday is, the last Wednesday of the month.

So -- and I know we have to come up with a plan to submit to the County, and we need to be working on that for our October meeting. And that needs to be remitted to the County by December. So when taking things into consideration, if you would, please put that in there. If you need -- need to present something to the other County -- committee, let me know, or if you want me to ask or if you want to for us to do something joint together without the committee. I don't know if you want an update of some of the stuff we discussed last night. I don't --

CHAIR STERMER: It's a great --

COMMISSIONER GOMEZ: -- but --

CHAIR STERMER: -- idea. I think part of it becomes -- because all different stakeholders have different efforts going on.

COMMISSIONER GOMEZ: Uh-huh.

CHAIR STERMER: And, to me, what our conversation that we've had here really is let's move back first to a macro view of it. Is this a project issue? Is this a city issue? Is this a regional issue? Is this a transportation-related issue? And start to come together on at least a majority view of how we go about doing that. We know funding's an issue. We know there's specific implantation issues. That's why I said there are various subsets of it. But I think what we need to do, and the Executive Director has been in contact with the Broward League of Cities, and I've spoken with, you know, the Executive Director and the President. I've spoken with the County Administrator. Now I'm going to reach out to the County Commissioner.

But we're going to get, in some respects, everybody, sort of like we did with Broward Next. We cast a wide net, said everybody get under the tent and have the conversation. We have been talking about it for a while, and I think it's time we really try to come to some consensus on, first, the vision.

So that's -- but, no, we were going to wrap in, and we'll liaison with you, and them. But if you can do me a favor, if you can get last night's agenda to the Executive Director --

COMMISSIONER GOMEZ: Okay.

CHAIR STERMER: -- that would be outstanding, if she doesn't have it already.

MS. BOY: And I -- and I've been to that committee --

CHAIR STERMER: Okay.

MS. BOY: -- and made a presentation before. So I'm very familiar with the statutory committee for the report, and I have been helping them in the preparation of the information that they submit to the state also, with any of the, you know, adopted Broward Next, the updated strategies and policies, ensuring that they have the most up-to-date ordinance and policies in that.

COMMISSIONER GOMEZ: Which we appreciate that. And last night we discussed (inaudible) land trust. But the meeting actually is for September -- excuse me -- it's for September 27th. It's --

CHAIR STERMER: Okay.

COMMISSIONER GOMEZ: -- a Wednesday.

CHAIR STERMER: Perfect. If you could just make sure that --

COMMISSIONER GOMEZ: I'll get her everything --

CHAIR STERMER: -- yeah, that would be great.

COMMISSIONER GOMEZ: -- yeah. Thanks.

MR. ROSENZWEIG: Mr. Chairman?

CHAIR STERMER: Mr. Rosenzweig.

MR. ROSENZWEIG: I think as you addressed this body, I think everything you just mentioned is inclusive. In all that we're doing with affordable housing, we have to

address all those issues as a macro approach to this problem.

CHAIR STERMER: Yeah.

MR. ROSENZWEIG: Thank you.

CHAIR STERMER: Appreciate it. Anybody else on this issue? We'll report back through the Executive Director on my conversations with the Commissioner.

AGENDA ITEM R-2 - PROPOSED FEE UPDATE

CHAIR STERMER: Item R-2, Madam Executive Director.

MS. BOY: Good morning. The proposed fee update was the subject of the combined Executive Committee and Land Use/Trafficways Committee immediately preceding the meeting this morning. The staff analysis and recommendation is really based on our fee structure has not been fully updated since 2008. It was updated in 2010 to reflect any CPI or salary changes that had taken place.

In 2012, we had done an updated study with the Office of Management and Budget, and they recommend -- recommended that we keep the fees as they were, because we were going through a very turbulent economic time. As things have changed through the years, we've updated that study and done an analysis to see where we're at if we had adopted the updated fees in 2012 as they were presented at that time.

So what you see before you are proposed fees. Some are increases and some are decreases. And the Executive Committee is supportive of those fees going to the County Commission and asking for them to update the fees, inclusive of an annual update, so we don't get this far out on fee updates again.

And then the additional part of it is that the -- that any amendment for -- has an affordable housing component for at least 15 percent for very low, low, or moderate affordable housing for a minimum of 15 years, and a legally enforceable mechanism, would be exempt from having to file a fee if the application is transmitted through the municipality through the traditional process.

So the combined Land Use/Executive Committee recommended that we pursue the fee increases -- and decreases, because for the trafficways amendments and waivers, it is a proposed decrease, and inclusive of the exemption for affordable housing.

CHAIR STERMER: Thank you. And as the Executive Director said, we met about -- we met on this at the meeting preceding this, and unanimously said yes. And I think it's important, dovetailing the conversation we just had about affordable housing, that this body is putting our money where our mouth is. And I think it's important, understanding we can walk the walk and we can talk the talk, and now we're saying if somebody

comes in with proposed projects that do what we want them to do, that we'd waive the fees regarding those applications.

There's a conversation going on at the School Board with regard to impact fees that they're looking at at the same time, and it's a similar conversation. But I think it's important that if we are striving to improve the quantity and quality of affordable housing in Broward County, that this is the minimum we can do.

So that's what the Executive Committee -- the joint Executive Committee/Trafficways Committee recommended approval. Any comments with regard to the item? Is --

MAYOR RYAN: Mr. Chair --

CHAIR STERMER: -- Mayor Ryan.

MAYOR RYAN: -- thank you for the analysis, the study, and highlighting what the fees represent in terms of operating costs and overhead, et cetera. Just as a comment going forward, I know in the immediate post-'08 aftermath, there was obviously, by everyone, not much desire to keep pace with costs, understanding the pain that was out there. Obviously, some of these increases seem large this year, and it's a product of not having kept up annually to make sure we're keeping pace.

The sticker shock that often happens was part of a well-intentioned strategy, but the complaints are often, why didn't you just raise it a little bit each year to keep up. So, hopefully, going forward, this body and staff will -- even if we decide not to increase, let's continue with the analysis and have an affirmative effort to say, yes, we're going to increase to keep pace, or no.

CHAIR STERMER: As raised during the Executive Committee and included in the recommendation, it was raised by Commissioner Blattner, and the Executive Director's going to work out the language with the County Attorney's Office for their ordinance, because this has to be approved by the County Commission, that there will be CPI increases on an annual basis. So we won't get behind anymore. It'll be a current go forward process. Commissioner Gomez. Sorry. Mr. Rosenzweig.

MR. ROSENZWEIG: Yes, in further conversation, I suggest that we look at the CPI and the increases and, as a -- should the CPI drop, I think we should have a percentage in there so that if there are costs that have increased in that period of time, they be taken into consideration, as well, so we maintain and cover our costs and not have it go down.

CHAIR STERMER: No, you're a hundred percent right on that. That's -- and the Executive Director's got that. Any further comments with regard to Item R-2? Is there a motion with regard to Item R-2?

COMMISSIONER BLATTNER: So **move**.

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CHAIR STERMER: Moved by Commissioner --

MAYOR GANZ: Second.

CHAIR STERMER: -- Blattner, seconded by Mayor Ganz. All those in favor, signify by saying aye. All those opposed? Motion carries unanimously.

VOTE PASSES UNANIMOUSLY.

AGENDA ITEM R-3 - COUNSEL'S REPORT
- BERT J. HARRIS, JR. PRIVATE PROPERTY RIGHTS PROTECTION ACT

CHAIR STERMER: Mr. Maurodis, good morning.

MR. MAURODIS: Yes, I've -- good morning, everyone. I've been asked to give a brief presentation on the Bert Harris Act in the State of Florida, and I think it's -- I think it's appropriate for every land use body to have a general idea of the Bert Harris Act and the context of it.

Prior to the Bert Harris Act, challenges to governmental actions which were deemed by the property owner to deprive that property owner of certain property rights were -- were undertaken through constitutional and statutory basis as provided under federal law. And this is the concept most of you have heard, is the concept of takings law, where there was a taking.

Generally, we -- through the -- the way the law developed, it was always very clear, and it's in the Constitution with regard to eminent domain, that a taking, a physical taking, which is very easy to determine, that if the government came in and took property for a road, that compensation was due. But what developed and was not always there, what developed was a law that there could be a regulatory taking. And as one judge famously said, and kind of set the tone for it, is that when a regulation goes too far, that could constitute a taking, generally where all reasonable use of the property was deprived.

And that's what property owners were left with in most states. And then, in a number of states, a movement started to provide an additional remedy. And in 1995, the State of Florida availed itself of the chance to provide for that new remedy, and that was called the Bert Harris Act. And that's what we're going to discuss today. And it's important to note it's a new remedy. We'll -- we'll discuss that, because it's something -- you know, it's not -- it's something more -- less than a taking, in effect.

The purpose of the Act as set forth in the Act was to -- and this is -- a key word of art was to provide a remedy for property owners who suffered an inordinate burden. You'll be hearing me discuss that a lot, because that's going to be -- that's going to be the key to this -- to this entire thing. And, again, it's -- this Act is not unique, but, in certain

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regards, it is unique. It provides a very detailed procedure, which I'm not going to get into here, because I don't think that's -- that's really relevant, but it provides a procedure for a claim to be made before -- a pre-suit claim to be made, and 150 days for a municipality or a county to respond with what used to be called a settlement offer -- it's now called a Statement of Allowable Uses -- to see if there could be a settlement. If no settlement is -- occurs, then the lawsuit would ensue.

But let's -- let's just take a brief second to look at the definition of inordinate burden and unpack it a bit, because that really is the basis for it. I don't want to get into, if possible, because we are an advisory board, the hypotheticals as to what would do that, because, one, they're going to be very fact intensive, and, two, the ultimate opinion is going to be given at the County Commission level, and I don't want to be in a situation where we have kind of bearing or where they say, well, you know, in a hypothetical, the Planning Council attorney said this, and why are you doing that. So -- but I'm going to try to just give you a feeling of what you're dealing with here and the legal framework you're operating in.

So I'll read you the definition of an inordinate burden, because it's important. It's an act which has directly restricted or limited the use of real property, such as -- such that the property owner is permanently unable to obtain the reasonable investment-backed expectation for the existing use, or a vested right to a specific use, or where the regulation requires that the property owner bear permanently a disproportionate share of the burden imposed for the good of the public, which, in fairness, should be shared by the public at large.

So where you're making possibly -- in beach situations, beach front -- beach front situations, open up your beach front lot for the purpose of the general public, and so you are bearing a disproportionate share of the burden for the public at large. But I think there's -- there's a couple of things that we want to briefly focus on.

The term existing use, in so many cases -- the lawyers will appreciate this; the non-lawyers will say why do they do this -- is that existing use is not necessarily the existing use. The existing use is an actual present use of the property or an activity or such that is reasonably foreseeable and non-speculative. So it could -- you -- under the concept of an existing use, you could have a right to a zoning category or to uses that your present zoning category don't mention if they're reasonably foreseeable, non-speculative, and suitable for the subject real property.

So it's -- you know, normally, you would think an existing use is very easy. What's the existing uses? We've got it pegged down. Well, it's not quite that easy. So it's a bit of a broad definition. So there -- there are some cases that -- a few cases that touch upon this. I won't get in too much, because -- only because for 22 years of its existence, there are really not as many cases, appellate cases that get into the meat of this as you would -- as lawyers would hope. We are left to kind of piece things together and make the best we can out of it.

The other part of it is reasonably -- reasonable investment-backed expectations. And this is -- this is an important element of what constitutes an inordinate burden. Remember, we start here. If it's an inordinate burden, you've got a problem. That's where the problem starts. If -- if it -- if -- that's where the statute can kick in. So that's why we are constantly talking about that. And the concept reasonable investment-backed expectations first arose in the takings law that I talked about in the beginning, in the 19- -- in the 1978 case that was -- that was first talked about, basically is when someone buys the parcel of property, they have a right to expect a certain return on that property based upon a number of factors.

There's one scholar who -- who is kind of a property rights advocate, set forth a kind of a -- like a 12-point test, but some of the elements are the severity and extensiveness of the regulations at the time the property was purchased. So when you bought it, what did you have a right to expect? The degree impairment of use of the property of the regulation. How bad does -- how much does it affect it? Is it minor? Are you still allowed to, you know, do most of what you thought you could do? The uses available before enactment of the legislation and after enactment of the legislation. There's a good case, Reahard versus Lee County that has a -- that -- that talks about those -- those type of things.

But it -- it's a -- it's more than we need to totally get into here, but what -- what the concept is is does that regulation kind of prohibit you from realizing the reasonable expectation, investment-backed expectations of that. Now, the problem with using this term -- there's good things and bad things about using this term. There's a lot of case law that defines or talks about reasonable investment-backed expectation, but we started out from the proposition that the Bert Harris Act was adopted to give you a remedy above the takings remedy, basically another remedy for things that don't rise to the level of taking.

But in attempting to define the terms, it used a takings term, so we -- you know, it gives lawyers more -- more to discuss. But what we do know is that the taking standard of depriving all reasonable use of the property has been lowered in the Bert Harris Act to an inordinate burden, whatever that may mean. So that we have to recognize. So there is a -- there is a -- just a new -- a new player in town, so to speak, that we have to deal with.

But the inordinate burden, in my view, is a -- still is a fairly significant test to have been met. And one of the things you should know is the way these cases are determined is that after you go through the pre-suit action, when the lawsuit is filed, the litigant, the Plaintiff, has to provide with it a bona fide appraisal showing the before and after value of the property, the value of the property before the regulation and the value of the property after the regulation. And the way the litigation runs is that the judge is the one who makes the determination as to whether there is inordinate -- that's a legal determination. If there is a determination of an inordinate burden, at that point, then you get into almost what's like a condemnation type of law case where you're looking at

appraisal. How much did it do, et cetera, et cetera. And that's where everyone's going to make a determination on inordinate burden.

The final point I would make is this, the one to remember, you are a recommending body, so no act that you undertake will cause an -- a lawsuit. Now, you could recommend to the County Commission if they take the recommendation, et cetera, then there may be something to do there. However, there is still debate as to whether a Comprehensive Plan amendment enactment itself would form the basis for a Bert Harris Act, because there -- there was a lot of case law, and to try to determine is the mere enactment of a law of general application, does that kick in the Act, or does it have to be applied to a particular piece of property.

There was some dispute, but in -- a few years ago, the Legislature attempted to resolve the dispute by basically providing a -- kind of a two-part -- two ways that the statute can kick in. One, if after the ordinance or act or regulation was adopted, you sent a notice out to the property owners, hey, we've just adopted this; it could have an effect upon your property values; kind of -- almost kind of ringing a bell in their ear. Then, at that point in time, they could file the action. But you're kind of telling them, hey, we did something to you property. If you don't do that, it's then when the act is first applied to your property.

So the question is, in adopting a Comprehensive Plan ordinance, is that in itself an act which could cause the Bert Harris Act to be implemented. Now, again, down the road, the adoption of a Comprehensive Plan amendment could, or maybe, you know, an argument could be made if it's a small Comprehensive Plan amendment and it's very specific to this parcel of property, lawyers will make an argument that that's -- that's applied to them.

But that's -- that's just a general summary of it. I don't know if I've confused you more than helped you, but the bottom line is that there is a -- there is an Act that -- that is, you know, slightly more liberal as far as property owners than the takings law that had developed. So, again, it's a -- it's an extra thing to be worried about, that where government inordinately burdens your use of real property, there is a process to obtain relief in the state courts through the Bert Harris Act.

CHAIR STERMER: One, thank you, Andy. I think it's important to the sentence you said probably ten sentences before the end of we're not the ones that ever do anything here. Some of us may, when we sit on our home daises. That's a different issue. But when we sit here, we're not a final arbiter. We are an advisory board to the County Commission. And if somebody does something, it's them, not us.

So I think it's important to put everything that Andy just said in that context. It may be somebody else's problem. It may be your problem with the item in your city. But when you sit here, I think Andy's given good guidance on that. Any comments from any -- shocking, Mr. Grosso picked up his pen. And let me say this, now that the full

membership is here. Mr. Grosso's been added to the Land Use/Trafficways Committee, at his request, so congratulations on joining us. Just wanted --

MR. GROSSO: Thank you.

CHAIR STERMER: -- to make everybody aware of that.

MR. GROSSO: Thank you. Thank you, Counselor. I think it was at my suggestion -- excuse me -- that we got this report, which I think is -- was really excellent and helpful. Thank you very much for looking into this.

What provoked my request for this was the statement -- I don't know, it might have been a representative of an applicant or somebody made a while ago that because of the Harris Act, we are not allowed to change somebody's land use allowance to reduce uses or intensities. We're flatly prohibited from doing that. I think Andy's report makes clear that is not the law. We absolutely can, and it is only if a change that reduces somebody's uses or densities and intensities amounts to an inordinate burden -- not just any burden, not just any change, but only if it's so drastic that it constitutes what I think Andy correctly identifies as a relatively vague term, is in inordinate burden. Only then.

So I think it's clear that there's 17 land uses allowed. We change the plan and only 15 or 14 or 13 are now allowed, that's not going to be an inordinate burden. I think when people come to us and say, you've got to change the plan for us on the other end, because if you don't change the plan the way we want it, we can do these other things right now, and you're not going to like that, well, my response to that threat is, if the current plan allows bad and inappropriate things now, let's change it. Let's reduce it. Let's not allow people to use the threat of doing what the plan allows now to get something different. If there's a threat resulting from what the plan allows now, let's take that threat away. Let's amend the plan.

Now, if that amendment to reduce that threat of what's allowed now would be so drastic as to cause an inordinate burden, then we might have a problem. But that's to be looked at on a factual case-by-case, situation-by-situation burden. It's not a flat you can never do it under any circumstances. And I think that's what Andy's report tells us. And I know that that's what the law is there.

Some states adopted a law that said no changes. Any change that reduces fair market value at all violates their state property rights. We didn't do that. We said it has to amount to an inordinate burden, which is something akin to going too far, under constitutional law. But it does have to rise -- or fall to that level. And it -- it's a sliding scale. Looking at the investment-backed expectations, looking at the impact on the landowner is one side of the scale.

You also look at how important is the change. You know, when we're doing some minor change that has a minor change on the property value, it's not going to violate the law. If

we're doing a major change but we're doing it to save people from being killed during a hurricane because of unsafe allowances in the plan, that's a pretty high level of government purpose, and, under the takings -- under the legal factors, under the Harris Act, we're going to get more leeway because of the weight and the strength of the public purpose.

I think those are -- and the last couple of things I'll say there is this law's been on the books for 22 years or something like that now. There is not a single appellate case that has found a Bert Harris Act violation. Its biggest impact has definitely been in the threat that we'll sue you, as opposed to the actual operation of the law.

And the other thing that Andy mentioned that I think's really important here is that the law provides for an out. If, in any particular circumstance, where the application of a plan amendment really does, based on appraisals and an intensive look at that property, threaten a Harris Act violation, the law allows the local government to grant a variance, to change its action.

So what that tells me is you don't dumb down your Land Use Plan because of the potential concern or threat of Harris Act violations. You say in your Comp Plan what you think you need to have the rules be and, if in any particular situation that's really going to violate Harris Act and expose the County to liability, then we grant a waiver then for that person in that set of circumstances.

I think that's the approach that the Harris Act strongly suggests to any local government. So those -- those are the things I think that spring from. And if I said anything that Andy disagrees with, obviously I want to hear it. But I thought it was a really excellent report, and I think those are the take-home legal points from that. And I really appreciate, Mr. Chair, us asking Andy to do the analysis and presenting it to us today. Thank you.

MR. ROSENZWEIG: Mr. Chairman --

CHAIR STERMER: Mr. Rosenzweig.

MR. ROSENZWEIG: -- not being an attorney, not having practiced law, sitting on this Council, how does this impact us as far as these issues coming before us? Do we have any -- does it come to us in any form whatsoever? Do we just agree, and then it'll go back to the city to make the determination?

CHAIR STERMER: I -- as Andy sort of said, I think what it is is we may hear lots of things from the podium, but I think in the end product, we're not the ones that do anything. All's we're doing is passing on a recommendation to the County Commission. So in great measure -- I won't get in -- because there can be factual situations that, as Andy alluded to, could, but on -- generally, on all fours, we're not the ones doing the taking, so --

MR. MAURODIS: It's going to be the exception --

CHAIR STERMER: Right.

MR. MAURODIS: -- and if there's something that we felt that that's something you needed to look out for, that it would be an inordinate burden, it certainly should be -- could be a subject of discussion here. But nothing that you do --

CHAIR STERMER: Right.

MR. MAURODIS: -- will be the direct cause of a Bert Harris Act, because you're not that powerful. I hate to say --

(Laughter.)

CHAIR STERMER: It's a wonderful --

MR. MAURODIS: -- that.

CHAIR STERMER: -- it's a wonderful thing.

MR. ROSENZWEIG: Thank you for --

CHAIR STERMER: But, no --

MR. ROSENZWEIG: -- your interpretation.

CHAIR STERMER: -- thank you, Mr. Grosso, for raising the issue.

MR. ROSENZWEIG: Thank you.

CHAIR STERMER: Anybody else? Mayor Ganz.

MAYOR GANZ: Yes, having the luxury of being somebody who makes these decisions and is facing a Bert Harris Act currently, and Mr. Maurodis is well aware of it, obviously.

CHAIR STERMER: And just be careful what you say, sir.

MAYOR GANZ: Exactly. Our interpretation of what an inordinate burden is is very different than what an applicant's can be. So the threat is always going to be there, no matter what you do. We can be taking an inch of -- a sliver of -- of a right of way, and that might be an inordinate burden in someone's interpretation of that.

Since we are far enough away from the process, there is no liability really on us when we make that recommendation. That's a luxury that we have as the -- but as a board

that makes recommendations to another board that does have that liability, I think it's our responsibility to point out, when we make these motions and when that threat is made, while we might be making a recommendation that might be limiting or could potentially introduce an issue with the Bert Harris Act, I think it's -- I think it's right for us to kind of point that out, that -- that while we might be making a recommendation here to lessen a usage, this might run the risk of a Bert Harris Act.

As an advisory board, I'm sure there are other people advisory -- advising the County Commission that is going to tell them you're running into the risk of a Bert Harris Act, but we should also point that out when we discuss and debate that, as well.

MR. GROSSO: I would strongly agree with that. Andy's technically correct, our action would not trigger a Harris Act lawsuit, but it would be foolhardy of us, and we'd be a lousy partner to the County Commission to recommend something that we know has a high likelihood of violating someone's Harris Act rights.

I think it is something we ought to consider in our decisions. But, as we consider it, we ought to not do it with one hand tied behind our back. We should know the parameters of what the Harris Act does allow us or limit us to do, but certainly not just recommend something we know is going to be a violation and just let the County Commission deal with it. That would be irresponsible. I would never support doing something like that.

CHAIR STERMER: And I don't think -- I think anything that would emanate out of here would -- if there's a concern, would say it. So anything else with regard to the -- Mr. Blackwelder.

MR. BLACKWELDER: I just wanted to ask Mr. Maurodis is the Bert Harris proceeding a jury trial or a judge trial?

MR. MAURODIS: It's bifurcated. The decision on whether there is an inordinate burden is made by the judge. If the judge determines that there's an inordinate burden, it goes to a jury. And at that point, it's akin to -- it's not akin -- it has some elements of what a condemnation case looks like. There are appraisals introduced and you show how much the value was reduced and that type of thing.

CHAIR STERMER: Anything further? Mayor Seiler.

MAYOR SEILER: Yeah, I'll just add one thing. I've actually litigated several Bert Harris cases, and having litigated some in the late '90s after they created it. Bert Harris was actually a member of the Legislature that --

UNIDENTIFIED SPEAKER: Yes.

MAYOR SEILER: -- drafted this response to. But -- and then there were changes made when I was in the Legislature, too, and I can promise you there'll be more changes

every couple years.

UNIDENTIFIED SPEAKER: Yes.

MAYOR SEILER: So even though we might have this update now, every couple years somebody, feeling that they're aggrieved, or feeling that they were wronged will go to their -- you know, their local legislator, whether House or Senate, and say, hey, can you add this in to the Bert J. Harris Act, or can you -- so every time somebody feels that they didn't get their just compensation or something happened unfairly, they're always trying to modify it and update it. And so I would, you know, suspect that we'll see changes even coming every session, if they get proposed, to the Bert Harris Act.

MR. MAURODIS: A couple years ago it was done. The Koontz case on unlawful exactions was then put into the Bert Harris Act as a -- as I explained.

CHAIR STERMER: Yeah. It's an ever-evolving thing.

MAYOR SEILER: The ironic thing is the first Bert Harris case I ever had was against the City of Fort Lauderdale before --

(Laughter.)

MAYOR SEILER: -- I was Mayor of Fort Lauderdale. So, of course, we've never made a mistake since.

UNIDENTIFIED SPEAKER: No.

CHAIR STERMER: Anything else? And we know that Ms. Miskel and Mr. Laystrom will never threaten us with a Bert Harris claim, because they heard the presentation this morning, so we're good with that. So thank you in -- thank you in advance.

AGENDA ITEM R-4 - EXECUTIVE DIRECTOR'S REPORT

- BROWARD NEXT: MEMBER COMMENTS

- STATUS REPORT:

- CLEAN UP/EHNCANCEMENT AMENDMENTS

- ADMINISTRATIVE RULES DOCUMENT

CHAIR STERMER: Madam Executive Director, your Executive Director's Report.

MS. BOY: Good morning. I'm going to go off of the -- what you have in the backup for a second and kind of go backwards from the things that are the quickest information. We have five Public Hearing items today. On items -- there's only public speakers on Item 4. Items 1, 2, 3, and 5 have speakers for questions only. I just wanted to let you know that.

Second thing, I'm going to be polling the members in the next couple of weeks to report at the September meeting for the preferred date for your combined November/December meeting. It just came to my -- came up to me, you know, we've been working with MIT and the University of Toronto the past couple of years, assisting their graduate studio, and they've asked us for some dates to travel to do the jury part of their -- you know, the final part of their class. So like the December -- sorry, the December 7th date was one of those, and I said, you know, I'd have to survey and let them know. So I'm doing it a little bit earlier than I usually would, but if we could make a decision on that at the September meeting, it'll help them with their schedule for their course work.

The third thing, I just heard from the Charter Review Commission two days ago, the -- you know, we've been keeping you up to date on what -- the activity, you know, that we've been there probably three or four times for a good couple hours each time, a full presentation with Mayor Stermer. I've been back for several rounds of questions and discussion. And they're at the point, the Infrastructure Committee, where they're going to be making their recommendations to the full Charter Review Commission.

The last time I was at the Charter Review Commission subcommittee, you know, we have gone through the Charter and made several kind of clean-up amendments, and their real question was if there was only one thing, or maybe two thing -- two things that the Planning Council would recommend, you know, what would that be. We had discussed it at a previous meeting, and it really came down to right now the County Charter requires that the Planning Council hear items for two Public Hearings as the local planning agency. So one of the changes that I think would be -- could actually assist with that is a requirement for a minimum of one Public Hearing. We -- like I said, we've talked about it many times before.

So if the Planning Council objected to an item at a first Public Hearing, then that would be a trigger for a second Public Hearing requirement. If the Planning Council recommend approval, straight approval, then that -- they would make -- be able to make that decision. But right now, as it is, every amendment comes back to you two times. So this was -- had come up as part of Broward Next and streamlining.

So I'll be meeting with their staff early next week, but I'll send out an email reminder of kind of what the list of recommendations was that we initially made to them and kind of how those have pared down.

The second recommendation or the second thing that we thought was important was related to the platting authority for the County and if the County was interested in streamlining that, because right now the County Commission -- or how the plat and plat note amendment process worked, could that be streamlined started with the Charter. So those were the two primary things that we had talked about with the Infrastructure Committee over about the past 18 months. And, like I said, they just contacted me this week.

CHAIR STERMER: I don't mean to interrupt you, but let me see if we can maybe get something to maybe get some people out of here before we continue, because I have a feeling there may be some discussion with where we're going next.

PUBLIC HEARING

AGENDA ITEM PH-2 - RECERTIFICATION PCR 17-5

AGENDA ITEM PH-3 - AMENDMENT PC 17-8

AGENDA ITEM PH-5 - AMENDMENT PC 17-13

CHAIR STERMER: There were only speakers signed in to answer questions on PH-1, 2, 3, and 5. Is there a motion with regard to PH-1, 2, 3, and 5 or does somebody --

MAYOR SEILER: So **moved**.

CHAIR STERMER: -- want to pull one of them?

MAYOR SEILER: So moved.

MR. DIGIORGIO: Second.

CHAIR STERMER: Ms. Graham? It was moved --

MS. GRAHAM: I want to pull PH-1 for my vote, please.

CHAIR STERMER: Okay. Moved by Mayor Seiler, seconded by Vice Chair DiGiorgio. All those in favor of moving PH-2, 3, and 5, and then we'll come back to 1 separately, signify by saying aye. All those opposed? PH-2, 3, and 5 pass unanimously. Thank you for those of you that are here. You can now go.

VOTE PASSES UNANIMOUSLY.

AGENDA ITEM PH-1 - RECERTIFICATION PC 17-4

CHAIR STERMER: Is -- you just want to vote no, Ms. Graham?

MS. GRAHAM: Yes.

CHAIR STERMER: Okay. With regard to PH-1, Ms. Graham just would like to vote in the negative. So is there a motion to approve PH-1?

MAYOR SEILER: So **moved**.

CHAIR STERMER: Moved by Mayor Seiler, seconded by Mr. DiGiorgio. All those in favor, signify by saying aye. All those opposed?

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MS. GRAHAM: No.

CHAIR STERMER: Let the record reflect that the motion passes with one negative vote by Ms. Graham. If you're here for PH-1, thank you, we're done with that.

VOTE PASSES 13 TO 1 WITH MARY D. GRAHAM VOTING NO.

AGENDA ITEM PH-4 - AMENDMENT PC 17-11

CHAIR STERMER: Is there anybody in the audience -- Barbara, those that signed up, is there anybody opposing PH-4?

MS. BOY: I'm not sure. I have four speakers. Peter Gallo, Andree Hammond, Nick Zweber, and the agent, Bonnie Miskel. Those are the first speakers that we have.

CHAIR STERMER: Question to the four of you that were just named. Do you oppose the project? Or are you just here to speak in support of the project?

UNIDENTIFIED SPEAKER: (Inaudible.)

CHAIR STERMER: Okay. Is there a motion with regard -- seeing that there's nobody in the audience that's opposed to PH-4 --

MR. DIGIORGIO: I'll **move** PH-4.

CHAIR STERMER: -- moved by Vice Chair DiGiorgio, seconded by Mayor Seiler. All those in favor, signify by saying aye. All those opposed? For those of you all here on PH-4, you can go. Motion passes unanimously. So we're done with all of those items.

VOTE PASSES UNANIMOUSLY.

AGENDA ITEM R-4 - EXECUTIVE DIRECTOR'S REPORT

- BROWARD NEXT: MEMBER COMMENTS

- STATUS REPORT: - CLEAN UP/EHNANCEMENT AMENDMENTS

- ADMINISTRATIVE RULES DOCUMENT

CHAIR STERMER: Thank you, Ms. Blake Boy, for letting us interrupt your report.

MS. BOY: Thank you. No, thank you. I'm sure they thank you more. So like I -- as I was saying, we'll send out -- I'll send out an email reminder of all the information that we've shared with the Charter Review Commission over the past year and a half, and if you have any comments that you would like, I'm going to have a meeting with their staff on Tuesday, just about the -- you know, the recommendations that we would have regarding the Charter and any questions being filed.

The next thing that I'm going to go to is the status report. This is on the clean-up and

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enhancement amendments that were initiated by the Council in May, and also the Administrative Rules document. Subsequent to the initiation, staff held a workshop on June 29th, and then sent out these updates that corrected things that were inadvertently left out of the plan, things that need to be corrected to make the plan work efficiently and effectively, consistent with Broward Next.

And then there were also three proposed amendments that were substantive in nature as part of that. One related to plat and platting exemptions and examination of that, one related to aerial encroachments for being protected for trafficways dedication along trafficways corridors, and then the third piece was the review of the electrical generation facilities category.

Subsequent to the workshop, we received comments, which I sent out to you last night, from the County staff, objecting to the electrical generation facilities review, folding that into their portion of Broward Next, which is kind of the next part of it. The Comprehensive Plan consists of many elements. You all make recommendations on the future land use element. They make recommendations on everything else, transportation element, conservation element, solid waste element.

So taking that -- that comment into account, Mayor Stermer sent out the -- asked me to forward their comments last night, and I believe that there's a request on the table to hold that piece in abeyance. And then also the platting part of it, which I'm kind of excited about, we're going to partner in a workshop with the County staff related to the Land Development Code. So we're going to do the opening piece of it.

We presented the -- at the workshop in June, hey, does anyone -- what are your suggestions on how we can kind of change the platting exemptions besides the increase in acreage that we adopted as part of Broward Next and the interpretations that we made. We haven't gotten any comments back.

So I talked to -- when they started putting the Land Development Code workshop on the table, I said, hey, can we do the opening part of the workshop, talk about the Charter authority, talk about what we have in the Land Use Plan to kind of stimulate this conversation? Because maybe if we're talking about it in terms of how the amendment process, the plat note amendment process works, maybe we'll be able to get more input that way. And then also the aerial encroachment piece, that would -- we're actually still waiting for comments on that also.

So we would move forward on anything that's a true clean-up, not a substantive issue, at next month's meeting, make a recommendation to you on that. All of those amendments will be folded into a single report, because they -- they're not changing the substance of the plan. And then the electrical generation facilities review would be held in abeyance until the County completes their review of the solid waste element and update of that. And I think that that's it. Is that it?

CHAIR STERMER: No. And -- and I thank you for that. Part of it is -- and for those of

you that are new to the board, when we were doing affordable housing, there was an issue of methodology, and the desire, when the County Commission initiated a change with regard to the methodology, and the Council held it up while we were doing Broward Next, and said if we're going to tackle issues that are part of the -- that process, let's do it all at one time.

And understanding our relationship with the County staff, on the second portion of Broward Next, instead of moving this forward now and, in all candor, there are some folks that are going to object to the proposed language, let's work it through the process as part of the second aspect of Broward Next and vet it through everybody that way. That way, it's going to get done in a timely fashion with the -- as part of a larger review of the Comp Plan and the issues related to it.

So that's why I sent you the email last night is for those pieces that are truly clean-up, you know, I would seek a consensus from the board to direct the Executive Director to bring those back at our next meeting, and those where there's not, particularly with County staff, that we fold those into the next part of Broward Next. Is there any comment with regard to that suggestion?

MAYOR SEILER: I agree with it.

UNIDENTIFIED SPEAKER: I agree.

CHAIR STERMER: Okay.

UNIDENTIFIED SPEAKER: I agree.

CHAIR STERMER: You have the direction to go. Next.

MS. BOY: Okay. Sorry. Okay. Thank you. The last part of the Executive Director's Report is when Broward Next came before you in March for your second Public Hearing, we had a couple of newer members that asked to put their comments on record. And with that request, Mayor Stermer invited all members to submit any comments that they may have regarding the policies, the permitted uses, definitions, et cetera, of Broward Next.

It is compiled under your tab R-4, the member comments are compiled at that place. And there is a summary. Attachment 1 has an outline of the member comments as submitted, and then staff response and information. There's also information included in here regarding the outreach process that was gone through as part of Broward Next.

And at the end of Attachment 1, there is a statement on -- a general statement regarding compatibility. And that was something that I had -- Mr. Maurodis and Mr. Sniezek had worked on eight or ten years ago in response to another question regarding compatibility, so I worked with Andy to update the language to include that as part of --

as part of the attachment, because some of the member comments were related to compatibility issues and concerns. So at that, I would take it back to you, Mayor Stermer.

CHAIR STERMER: Thank you. And I appreciate the effort from Mr. Grosso and from Mr. Blackwelder. And I think part of it relates to your comments during the Bert Harris conversation. Part of this is a philosophical issue. And I'm not here to dicker with somebody's philosophy. I'm not. We all walk in with what we walk in with and we all walk out with whatever that is.

But I think the Land Use Plan of Broward County is a fine balance between County government and its 31 municipalities. And we've seen at times when that gets tested. And I think through the Broward Next process, we saw a further balancing. At some points, there were certain carrots given to 31 jurisdictions in the County, and there are certain sticks out there. So it really is a balance. And I just make this as an overview, not in response to any particular comment. I mean, I said this during Broward Next.

We run the risk that if we impose too -- my words -- too much of a heavy hand through the County, that 31 cities, or some aspect of them or number of them, may rear their head to say we're going to go back, particularly understanding there's currently a Charter Review Commission, and say we now want to go back to the Charter and blow up the County's land use authority. So I say that as an overview, not in response to any particular comment. But for those of us that have sat here for a while, and Mr. Grosso and Mr. Blackwelder are intimately familiar with this, having sat here previously and in what they do in the outside world, but some of us, because of the other world we sit in, deal with that fine balance on a daily basis.

And I just caution -- and I think that's part of the response you got from the County -- from our staff, I'm sorry, in response to this is in some respects we walk on the edge of a razor, that if we push that razor one way or the other, particularly in favor of the County, there is a grave risk that some or all of the cities may go to the 19 people sitting down the hall and say, here's what we want. So I think -- I give that as an overview to at least, as a municipal elected official, and I'm sure the rest of the -- you know, rest of the folks sitting here that wear an elected hat are going to shake their heads yes, because we -- and those that formerly did, because we know of that tension.

But if there's -- and, honestly, I thank -- because, look, I think we see it's just perspective and philosophical. Mr. Grosso, you've got one. Mr. Blackwelder, you've got one. From your time here when you sat here before to where we are today, the nature of the County's changed a bit. And I think we're -- part of the Broward Next was to say we've created urban sprawl. Now how do we redevelop this County in a way that is meaningful and responsible, and provide for certain avenues for densities, as well as bonuses if you move into the area of affordable housing. So I think we've tried to layer that with transportation, environmental concerns, by bringing in the updated map series and things that are going on with the coastal areas. Dr. Jurado and our team spent an

awful lot of time together, and we continue to.

Those of you who recall, a couple of months ago we had the first hearing on an item in Wilton Manors related to the new requirements under Broward Next, related to water runoff and things of that nature. So we're sensitive to it. So with that, I -- Mr. Grosso and Mr. Blackwelder, you're the ones that submitted the comments. More than happy to -- Mr. Grosso.

MR. GROSSO: Thank you, Mr. Chair. The the perspective I would want this board and the cities to consider on this, as I look through the recommendations here, because several of these were mine, is that, because Broward Next, I fully support. We have done exactly what we need to be doing with Broward Next. One of the big reasons we're doing Broward Next is that we don't have a lot of room for error anymore. We are a fully built-out county. We need to be making the best land use decision, virtually on every neighborhood or parcel in this County. And I don't think you get there with language that is so vague it basically allows us to do whatever we want on any situation, or the County Commission.

I look at the one policy that -- that I suggested are, you know, the compatibility. I'm -- I'm suggesting instead of saying it's simply a consideration, it's a requirement. Now, when staff suggests, okay, the way to handle that, whether it's a consideration or a requirement, is if we think a land use can be made compatible with the city things like buffers and setbacks, then it's compatible.

But if we're not saying in our policy, you've got to be compatible with your adjoining land uses, what are we saying? We're saying you don't have to? We're saying it's only a consideration, and we can blow off incompatibility. We can approve a plan amendment even though it's not compatible? So it's got to be a requirement if it means something. How we implement that requirement through the mechanism staff talks about, that makes sense. I agree with that. But, otherwise, as our policy's written now, plan amendments are not required to be compatible with adjoining uses.

We talk about the character of communities. It's a consideration. Well, we should be preserving or improving the character of communities. That's the language I suggest, as opposed to just considering it. The word consider means nothing legally. It means I thought about it, and I blew it off. I ignored it. That's what that language allows.

I think another policy, 2.21.1, we strongly discourage plan amendments that put additional people in harm's way in areas prone to sea level rise. Well, should we not be denying them? Should we be, in any circumstance, increasing the amount of people or infrastructure or buildings that are in harm's way as a result of sea level rise? Should we not be denying those as opposed to simply discouraging them? That's the kind of thing that, if we're going to do the things that we promise with Broward Next, we actually need to have language that has some teeth, that has some meaning.

And certainly at the level of a Broward County Land Use Plan, the implementation of

exactly what those words mean on the ground at any city level, that's still there. That discretion doesn't go away when we say, however you do it, city, you've got to have compatible land uses as an overarching fundamental requirement. So that's my perspective on this, is that some -- you know, we've said yes to -- I don't know, I didn't do a scientific survey on this, but 99 percent of the land use amendments that come to us, we say yes.

I often wonder if our language of our plan, as we get to the next level of making the right decision every time, has enough teeth in it and meaning in it that we've got a clear set of guidelines and priorities when these plan amendments come to us. I don't think -- I don't think that the current language is up to that next level of excellence to get us there. I do fully support Broward Next, but I think we need to strongly consider tightening up some of this language and -- and giving it a lot more meaning and teeth.

CHAIR STERMER: Appreciate that. Mr. Blackwelder?

MR. BLACKWELDER: I appreciate what the staff has done in compiling this and articulating a position about the -- particularly the compatibility issues. The compatibility struck me when I read the Broward Next documents that we approved unanimously under the promise that there would be opportunity to air these and go forward with changes and adjustments, because it's a living type of document.

So I note that the first comment the staff had -- had put on the first page of it was that changing -- modification of the policy would require significant vetting and local government support. To me, as not a Commissioner or Mayor, as many of you are, it most strikes me that somebody would be making changes and redevelopments in a place such as the eastern part of the County, that's older and less uniformly developed, without considering the compatibility of what goes on with the neighbors. I was shocked to see in places in -- that it was notched out, the very words that were used, in other places where we do consider compatibility. So where'd it go?

And I can imagine it -- it went because some people don't want to have a wrinkle in their redevelopment plans to have to stop and think about that, or explain it to people like the Planning Council or the County Commission. So I'm firmly of the belief that we should take the invitation to significant vetting and local government support being gathered as a process to consider the comments that we've got from Mr. Grosso and myself, and any others that -- that staff had to consider. I'm -- I'm firmly of that belief.

I don't think we're -- we have an adequate Broward Next that will instill confidence. I think it will be endless disgruntlement, that -- that people will raise compatibility, and it will fall through the cracks. So why'd we do that? I just think we need to keep it out there in the public formative process.

CHAIR STERMER: My only response, and then I'm going to recognize Commissioner Blattner, is I think you have to have faith in 31 local daises, where these items first

emanate, that they're going to do the right thing. To turn around and say that this County has to direct and create the standard for its 31 independent governments to do what's best within their jurisdictional limits, you'll see us down the hall at the Charter Review Commission. Because I will tell you, it'll happen. Again, this is a balance that when you start telling -- and this is one of the few -- two things, really, that the County has the ability to tell -- have jurisdiction over its cities on. And if it gets pushed too far with shalls and musts and edicts, that you will have 150 elected officials down the hall.

And doing some of what you're suggesting, I think takes place already. When Mayor Seiler reviews a project down here on the beach, compatibility is discussed. When Commissioner Gomez has something in Tamarac, someone's trying to redevelop a golf course out by me, and the first thing they require is a rezoning, gosh, you don't think somewhere the conversation about compatibility's going to happen? It's going to.

So I think you have to have faith that the 31 local governments where these things start -- unincorporated Broward's different. Speak to the nine folks that sit here on a given Tuesday. But you have to have faith that the 31 governments, through their staffs, adequately review every aspect of a LUPA or a rezoning, and includes things such as compatibilities and densities and shifting from what's around it to something else. I will also say part of a redevelopment has to start someplace, and at that moment, that piece may not be compatible with its neighbors, but it may be compatible with the vision of a City of where that community's going.

So you could always then say there won't be redevelopment because the first piece to try to redevelop may be incompatible with what's around it. But you've got to start somewhere. So I, again, come back at the 10,000-foot level, not any specific piece, and just say that. And I know I can look around this dais and look at every elected official's head, and it's going up and down. And I just say that, in general, without specific -- to any specific policy, that -- that there was great pain taken to choose some of the words and -- my word -- create some squishy Jell-O, and rely upon the 31 governments to do what's right.

Part of the beauty -- and I can say this as a city that was involved in a compatibility issue -- one of the things that's in there is if there's something on a -- on a municipal boundary that affects the municipality next door, it comes here, because now it's not within the confines of that. It has a bigger impact. Davie Commons, look what happened out by me a number of years ago. And it came here. Staff wasn't happy with it, and I was standing at that podium yelling at the Planning Council at the time. It wasn't in my city, but it was affecting my city.

That's when compatibility here is on it's all fours. So it is a living thing that this -- that the 32 governments in Broward County deal with, so. Commissioner Blattner.

COMMISSIONER BLATTNER: Well, I'm going to come down in support of Mr. Grosso in this respect. In those policies that refer to Broward County doing things, I think there's

too much wiggle room in -- in what's there now. And to say you may or you can or you shall work with, there's a lot of wiggle room there.

I also think that if you leave it that -- if you -- if you decide -- if we decide that we want to have a little more definite direction there, that city attorneys and attorneys-for-hire will always find a way to address what they think is something that's unfair to their city.

I'm not so sure that that same comment that I just made, or that Mr. Grosso made, applies to, for example, 2.34.1 when it says municipalities may adopt a transfer of development rights. I don't think we should say cities must adopt a transfer of development -- I think that is a -- that wording is appropriate. But where it relates to the County, it's too soft and squishy -- your words, Mayor -- for me.

CHAIR STERMER: Commissioner Gomez, followed by Mayor Ganz.

COMMISSIONER GOMEZ: Basically, Mayor Stermer has said much of what I was going to say, and I appreciate that, because he said it better than I would. It is a balancing act. It's a very difficult balancing act, because part of my head does say we need to have some more strict guidelines so things can be followed. Rule and procedures being in place, you need to be able to have a straight line, or else everything can go squishy.

So -- but at the same token, being an elected, it is very important that our hands are not tied. We do take these things seriously. I believe every Commission does. And I think the balance act of this would be to err in favor of the Commissions, the City Commissions to be able to do what they need to do, because there's a lot more here with unfunded mandates that have been mentioned, other rules and regulations that get applied.

So we're looking at a bigger picture. Then when it comes down to what we have to tell our residents, I'm so sorry, we can't do this because the County has tied our hands, never goes over well and never does a city ever want to say that, because we want to work well with the County.

So if we're the body that's putting forth this proposal, we're not helping the relationship between the city and the County be able to do what we all need to do. What's best for our residents and our business owners is to develop wisely and take all these things into consideration. So forgive me, but I can't support the shalls and the requires that have been put in here.

CHAIR STERMER: Mayor Ganz.

MAYOR GANZ: Thank you. I do agree with some of the changes that have been suggested, I must admit, but I also believe, again, in protecting my city's rights and, as an elected official there, to have the flexibility to make decisions that are in the best

interest of my city, with the idea of what is best for all of Broward County. But just simply going through here and finding every consider and making it require and having every discourage changed to prohibit, to me, doesn't solve the problem.

We can sit here and debate every single instance that -- that has been suggested here on these, because some of them I agree with, and some of them I don't. And to Commissioner Gomez's point, having our hands tied on that, I think there are -- there's a beauty in grey. Not everything should be so black and white. I believe in the beauty of grey.

COMMISSIONER GOMEZ: I'm wearing the same color.

(Laughter.)

MAYOR GANZ: Yes.

MAYOR RYAN: He also believes in 50 shades.

(Laughter.)

MAYOR GANZ: I'll never live that one down. Thank you for that.

(Laughter.)

MAYOR GANZ: But I -- but I will say that -- that, you know, there are some instances where we do need some -- some stronger language that would put things that -- that I don't see would ever benefit our County.

When we talk about Section 2.9.3 about hydraulic fracturing and acid fracturing, that type of thing, I think that makes perfect sense to prohibit that from a County level, because it's not something that I could ever say that, yeah, gosh, it's -- it's probably in the best interest of the residents of Broward County to have that.

So in that particular instance, yes, I would fully support that. Other areas, it just gives me no ability to maneuver on certain scenarios that would be in the best interest of my residents. So it would take much further debate on this to -- to get me to say let's just blanket-change all the considers and discourages to requires and prohibits.

CHAIR STERMER: Let me make the following suggestion, and maybe it may move the process along a little. Everybody's got the submissions that were done by Mr. Grosso and Mr. Blackwelder, and Ms. Blake Boy's response.

If you -- let's, for the sake of using 2.9.3 as an example, what I'd like you to do is spend some time over the next few days reviewing this again. And if there are those you support and would want to see come back -- and we're going to do this through the

Executive Director -- send an email to the Executive Director saying, hey, I like what's proposed with hypothetical 2.9.3. It may be one, it may be all of them, it may be none of them. But this way, we'll start to see where there's a consensus and a significant enough consensus to bring things forward.

I think instead of going through each item here and debating it, let's sort of see -- because there may be some like 2.9.3, where there may be little discussion and everyone says, I got it, okay, I'm good with that, because most of us have gotten involved when the fracking stuff was proposed out there to go, no. So I think there may be unanimity in some of them that you might not see sitting here in the larger context of the conversation. Mr. Grosso.

MR. GROSSO: Thank you. I appreciate that. I think that's a terrific approach. I was persuaded by your statement on compatibility, and, to me, it does make sense if there's been a clear -- for example, that there's been a clear determination we are going in a different direction here for these valid planning reasons, it's not compatible with the existing, but we've made smart decisions to change the character of that community. I'm going to agree, in that situation, then you're doing good planning.

That language should be clear, as opposed to the blanket no. I like the approach that we should look at these -- to me, things like open space and natural areas as the -- a huge strategy for combating climate and sea level rise, to me, not making that a mandatory thing is a problem. For me, not making it mandatory to say no to putting more people in harm's way of sea level rise, that's a huge problem.

I would really appreciate if all the members would look at the details of these. I do think there are some of them that really merit a lot of consideration for an amendment to our plan. I appreciate your suggestion to staff, and I support it. Thank you.

CHAIR STERMER: Barb.

MS. BOY: And I can --

CHAIR STERMER: Madam Executive Director. My apology.

MS. BOY: Thank you. I can send out a digital version of this --

CHAIR STERMER: Yeah.

MS. BOY: -- in Word, and that might make it easier for some of you to go through, rather than having to write and take your notes. So I'll send that out this afternoon, and then you have a Word version to be able to, you know, put your comments in and send back, and then I can compile that.

MR. MAURODIS: And then what I -- what I would do -- with that type of comment, I

would -- I would append -- see if we could find a way of appending it to the minutes of this meeting or the next meeting, or a meeting where it's discussed, because I just get wary of that type of --

CHAIR STERMER: Keeping the public record intact?

MS. BOY: Right.

CHAIR STERMER: No, absolutely.

MS. BOY: We can --

MR. MAURODIS: But I would want -

MS. BOY: -- put each major item.

MR. MAURODIS: -- it with the -- yeah, yeah. Somewhere to find its way into minutes.

CHAIR STERMER: Yes.

MR. MAURODIS: That's -- that's important to me.

CHAIR STERMER: But I would ask the members, please, from your notebook, if you have a notebook, take the piece with you. And if you have it on your electronic device, please just look at it. And if you'd like a hard copy, just ask staff and they'll get you a hard copy as --

MAYOR SEILER: Well, she'll email all of us, so.

MS. BOY: Right. I'm going to --

CHAIR STERMER: But I'm saying if you don't want to print it out, if you haven't printed it out and you're looking at it on your electronic device and you actually want to look at it on a piece of paper, however you want.

MS. BOY: Take it --

CHAIR STERMER: Take it from the packet. Mayor Seiler.

MAYOR SEILER: One thing I would ask is to make sure that nobody replies all when you sent it back.

MS. BOY: Right.

CHAIR STERMER: Right. Just this is -- this is a response just to the Executive

Director.

MS. BOY: Right.

MR. MAURODIS: To the Executive Director.

MS. BOY: We just have --

MR. MAURODIS: But we also can protect by having it appended to the minutes --

CHAIR STERMER: Right.

MR. MAURODIS: -- so it'll be --

MS. BOY: Right.

CHAIR STERMER: Yeah.

MS. BOY: And we send all of our emails blind copy, so that the only person that you're replying to is me.

CHAIR STERMER: Right. Mr. DiGiorgio.

MR. DIGIORGIO: I would ask one thing of the membership here, to understand that the Broward Next is a true partnership document. And in that respect that so few things in this County have been considered partnerships over the past 20, 30 years with the municipalities, that we don't want to do things that tip that scale and seemingly weigh it to the County side of things, because with just one item -- and I'm not going to go through it -- last night that was -- that we may have missed or may have misunderstood what the -- what the land for the electronic facilities and maybe potentially having landfill somewhere where we didn't intend to cause an uproar with the -- with the cities.

I would ask us, when we go through these considered changes, we look through it of the filter of partnership and making sure that we understand what is in the best interest for all the citizens, not just from one perspective or the other. Thanks.

CHAIR STERMER: Appreciate it. And if everyone could just spend some time taking a look and send the Executive Director an email, I'd -- we would all appreciate it, because there may be some where there's more unanimity than everyone thinks.

OTHER BUSINESS

CHAIR STERMER: Anybody else have anything else before the Planning Council this morning? With that, we stand adjourned. Thank you, everybody. Drive safely.
(The meeting concluded at 11:11 a.m.)

PLANNING COUNCIL
AUGUST 24, 2017
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