

MINUTES

BROWARD COUNTY PLANNING COUNCIL

December 6, 2012

MEMBERS Mayor Lamar Fisher, Chair
PRESENT: Anne Castro, Vice Chair
Tim Bascombe
Mayor Vincent Boccard
Commissioner Bobby DuBose
School Board Member Patricia Good
Mary D. Graham
Commissioner Sue Gunzburger
Dan Hobby
Commissioner Michael S. Long
Commissioner Rita Mack
Louis Reinstein
Nicholas T. Steffens
Mayor Daniel J. Stermer

MEMBERS Sara Case
ABSENT:

ALSO Barbara Blake Boy, Planning Council Executive Director
PRESENT: Andy Maurodis, Legal Counsel
Mr. Frederick Burton
Mr. Don Lunny, City Attorney, City of Plantation
Nancy Cavender, The Laws Group

(A sign-in sheet reflecting those present is filed with the supplemental papers to the transcript of this meeting.)

A meeting of the Broward County Planning Council was held at 10:00 a.m. on Thursday, December 6, 2012, in Room 422 of the Broward County Governmental Center, Fort Lauderdale, Florida.

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

CALL TO ORDER

Chair Lamar Fisher called the meeting to order.

CHAIR FISHER: All right. Everybody, if you'd take your seats, please. Take your seats. We're going to go ahead and call to order the Broward County Planning Council meeting this Thursday, December 6, 2012 at 10:00 a.m.

We again want to welcome Nancy –

THE REPORTER: Thank you, sir.

CHAIR FISHER: -- who will be with us today.

THE REPORTER: Thank you.

CHAIR FISHER: And we'll begin with the roll call.

ROLL CALL

THE REPORTER: Yes, sir.

Mr. Tim --

CHAIR FISHER: I'm sorry. Call to order. We'll do the roll call first, then the Pledge.

THE REPORTER: -- Mr. Tim Bascombe.

MR. BASCOMBE: Present.

THE REPORTER: Mayor Vincent Boccard.

MAYOR BOCCARD: Here.

THE REPORTER: Ms. Sarah Case. Ms. Anne Castro.

MS. CASTRO: Here.

THE REPORTER: Commissioner Bobby DuBose. School Board member Patricia Good.

MS. GOOD: Here.

THE REPORTER: Ms. Mary D. Graham.

MS. GRAHAM: Here.

THE REPORTER: Commissioner Sue Gunzburger. Mr. Dan Hobby.

MR. HOBBY: Here.

THE REPORTER: Commissioner Michael S. Long.

COMMISSIONER LONG: Here.

THE REPORTER: Commissioner Rita Mack.

COMMISSIONER MACK: Here.

THE REPORTER: Mr. Louis Reinstein.

MR. REINSTEIN: Present.

THE REPORTER: Mr. Nicholas Steffens.

MR. STEFFENS: Here.

THE REPORTER: Mayor Daniel Stermer.

MAYOR STERMER: Here.

THE REPORTER: Mayor Lamar Fisher, Chair.

CHAIR FISHER: Here. Thank you.

CHAIR FISHER: If you'd now stand for the Pledge of Allegiance, led by Ms. Castro.

(THE PLEDGE OF ALLEGIANCE WAS LED BY VICE CHAIR ANNE CASTRO.)

REAPPOINTMENTS

CHAIR FISHER: It's an exciting day for the Planning Council, because we have some new individuals that will be joining us, and we also want to recognize some new appointments. We recognize, of course, our School Board member, Ms. Good, who has been reappointed by the School Board.

So, again, we welcome you for at least another year, hopefully.

And also, then, we have four new members that we're going to be providing the oath of office. And when I call your name, please come forward and join me here at the front. We'll begin with Mayor Vincent Bocard from the City of Coral Springs. Mayor, welcome.

UNIDENTIFIED SPEAKER: Welcome.

CHAIR FISHER: We have Ms. Anne Castro, who's now, of course, an Elector. She has been serving on this Board as our Vice Chair, and she is now an Elector, so we're glad to have her back. We'll have to officially swear her in as well today. We have Mr. Nicholas Steffens, Elector. And he's going to be joining us.

And then my dear friend Mayor Daniel Stermer from the City of Weston, he will be joining us as well. So for those that don't know, Mayor Stermer actually served for many years as the Chairman for the MPO. So we're glad to have him on board. So if you'll please join me. Will you raise your right hand, and say your name.

(OATH OF OFFICE ADMINISTERED AS FOLLOWS: I (name), do solemnly swear that I will support, protect, and defend the Constitution and government of the United States and the State of Florida; that I am duly qualified to hold office, under the Constitution of the State and the Charter of Broward County, and that I will well and faithfully perform the duties of member of the Broward County Planning Council of which I am now about to enter, so help me God.)

CHAIR FISHER: Congratulations. Commissioner Gunzburger, welcome.

COMMISSIONER GUNZBURGER: Thank you.

CHAIR FISHER: They said you would be ten minutes late; I think you're only five minutes late, so you did good.

COMMISSIONER GUNZBURGER: I drive fast.

CHAIR FISHER: For the seasoned members as well as our new members, there are bagels and refreshments to the rear of us here. We do ask, because we have a little bagel tin, if you can kindly make a contribution with any type of dollars. We would appreciate that, because those funds do pay for the refreshments that staff provides us. So we appreciate that.

CONSENT AGENDA

AGENDA ITEMS C-1 THROUGH C-4

CHAIR FISHER: All right. Moving on, our Consent Agenda's C-1 through C-4.

Are there any pulls? Is there a motion?

COMMISSIONER LONG: So moved.

CHAIR FISHER: It's been moved. And second?

MR. HOBBY: Second.

CHAIR FISHER: Moved and second. All in favor, say aye. Opposed?

Motion carries on the Consent Agenda. Thank you for that.

VOTE PASSES UNANIMOUSLY.

REGULAR AGENDA

AGENDA ITEM R-1 - COUNSEL'S REPORT

CHAIR FISHER: Now we're on our Regular Agenda. Mr. Maurodis, any report?

MR. MAURODIS: No report, Mr. Chair.

AGENDA ITEM R-2 - EXECUTIVE DIRECTOR'S REPORT

CHAIR FISHER: Okay. Ms. Boy?

MS. BOY: Good morning. First, I'd just like to congratulate the new members, and hope that you enjoy the experience of the Planning Council. We're happy to have you all. Second, I just want to remind any members that haven't gotten their new photo ID to either check-in with the security desk downstairs, just take care of that before it expires so that we can make sure you still get in the building and you have access.

And the last thing I just want to mention is that with the new membership, we will be distributing a new membership roster. We're just waiting to get some last minute information. So I'll be sending that out in an email in the next week or so with everyone's contact information. And then that will also be

posted on the Planning Council website. And, with that, it's concluded.

Oh, I do want to mention -- sorry -- the sign-in, the speakers that are signing in for the items. There are several people just signed in for questions only, but we do have two speakers that would like to -- to speak, Mr. Fred Burton. He's on our agenda for a Non-Agenda item. And then Mr. Don Lunny for Item PH-1. He's the City Attorney for the City of Plantation.

NON-AGENDA

CHAIR FISHER: Okay. All right. Mr. Burton, since you have a Non-Agenda item, you can come forward and speak at this time. As you come forward, for those new folks that have joined us, Mr. Burton was on our Council until most recently, and he served us well. And so he's here to speak to us. Mr. Burton.

MR. BURTON: Yes. I just wanted to thank everybody. I didn't want to just disappear and have everyone wonder what happened to me. But apparently I moved without having packed any boxes, so there was some new districting, and -- and therefore I'm no longer in the district that I once was to serve.

I wanted to thank each and every one of you. I really enjoyed the Planning Council. It was a pleasure meeting each and every one of you. And hopefully there'll be some opportunities in the future for our paths to cross. And apparently Commissioner Martin Kiar is now in charge of District 1. If anyone knows him, if you'd like to put a good word in for me, I'd love to just come back on the Council. But I didn't want to just disappear without having the opportunity to say thank you, and I enjoyed each and every one of you for the time that I served. Thank you very much.

CHAIR FISHER: Thank you, Mr. Burton. Thank you for taking the time.

AGENDA ITEMS PH-2, PH-3, PH-5 THROUGH PH-10

CHAIR FISHER: Okay. We are now under our Public Hearing Agenda, PH-1 through 10. We will pull PH-1 at this particular time, so PH-2 through 10.

COMMISSIONER GUNZBURGR: Move it.

CHAIR FISHER: Does anybody wish to pull --

MS. CASTRO: Second.

UNIDENTIFIED SPEAKER: Second.

CHAIR FISHER: Moved and second. Any further discussion?

Ms. Good? Are you pulling an item, or you want to talk about an item?

MS. GOOD: PH-1.

CHAIR FISHER: We're voting on PH-2 through 10. Any further discussion on PH-2 through 10?

MR. STERMER: I'll pull PH-8, please.

CHAIR FISHER: Pull PH-8.

MR. STERMER: I'm sorry. Not PH-8. PH-4.

CHAIR FISHER: Okay. So we're going to revise our motion. Is --

COMMISSIONER GUNZBURGER: I move -- my motion was for PH-2 through --

CHAIR FISHER: Ten?

COMMISSIONER GUNZBURGER: -- 10, with the omission of 4, as well.

MS. CASTRO: Second.

CHAIR FISHER: Very good. All right. All in favor, say aye.

Opposed? Motion does carry. Thank you.

VOTE PASSES UNANIMOUSLY.

AGENDA ITEM PH-1

CHAIR FISHER: We're now on PH-1. Ms. Boy.

MS. BOY: PH-1 (inaudible).

CHAIR FISHER: Ms. Boy, we cannot hear you. Your mic is not working for us today.

MS. BOY: PH-1 is a recertification for the City of Plantation for their Future Land Use Plan text.

You may recall that this item was tabled from the October 25th Planning

Council hearing because the Planning Council was looking for more information from the City regarding the correctional, penal, and re-entry facilities, as well as clarification on educational facilities being prohibited. Planning Council staff has been working with the City of Plantation at their plat meetings and found that they did provide clarification of a -- of a school facility, but it's not meant to be a traditional public or private school facility. In addition, the City understands the concern of the Council, and has asked that the Planning Council recertify the package with the exception of the community facilities portion of 1.6.8.

And what that would accomplish is that it would give the City time to go back -- the opportunity to go back to the City to refine the policy. So by not recertifying the community facilities portion, correctional, penal, and re-entry facilities would not be permitted by the plan during that time of the provisional recertification. The City of Plantation attorney, Mr. Don Lunny, is here if you have additional questions or would like him to speak on the City's behalf.

CHAIR FISHER: Before he comes forward, again, the Council should be commended on bringing items forward last month when we tabled this item, because it required time for staff to work with the City. The City has been very, very patient in working through the process and has provided additional provisions for the approval.

So, again, kudos for the Council. Even though there kind of wasn't an agreement, we were able to make some concessions here, so we appreciate all your efforts. Sir, would you come forward? Any further comment before we have Council communication?

MR. LUNNY: No. Ms. Boy has correctly summarized what has occurred, and you all have my letter of November 20th, 2012. So we're requesting exactly what she said, that the Comprehensive Plan amendments be fully certified with the sole exception of that language in proposed policy 1.6.8 as it applies to community facilities.

We found your staff very helpful and willing to engage in the process, and we'd like for you to, in the same spirit, move forward.

CHAIR FISHER: Thank you. Is there any further discussion of the Council?

COMMISSIONER GUNZBURGER: I have a comment.

CHAIR FISHER: Mr. Long, did you have any questions?

COMMISSIONER LONG: No.

CHAIR FISHER: Okay. Commissioner Gunzburger.

COMMISSIONER GUNZBURGER: I have an issue. I understand this exactly. That means that this is removed from the recertification, 1.6.8.

MR. LUNNY: No. It means that 1.6.8 is effective except as applied to the community facilities future land use category.

COMMISSIONER GUNZBURGER: I'm uncomfortable unless it's removed, and you would have the opportunity in one year to bring it back. To leave it there, that you're not going to do anything with it for one year gives me agitas.

I am -- I can't support it unless it's removed with you having the opportunity to bring back that language and have it considered by the Planning Council in one year. I am --

MR. LUNNY: Okay. Let me -- let me tell you why I can't -- why I can't agree to simply delete the words "community facility" and remove them. It's because they were adopted by ordinance in the Comprehensive Plan Process. It was sent to the State. It was approved at all levels before coming back here.

And I can't just agree to amend the Code provision and delete that. What I can do, and what your staff and Mr. Maurodis said would be -- have the same legal effect is we can ask the Planning Council not to certify that one piece. So it accomplishes the same thing but --

COMMISSIONER GUNZBURGER: All right. But we do not certify that one piece, because I -- I really --

MR. LUNNY: As for the community itself, Commissioner --

MR. MAURODIS: Your point -- your point -- oh, I'm sorry.

CHAIR FISHER: Let's let the speaker finish, and then Mr. Maurodis. Are you finished, sir?

MR. LUNNY: I think that I answered your question.

COMMISSIONER GUNZBURGER: Right.

MR. LUNNY: So it would -- the legal effect would be to approve 1.6.8 conceptually, with a line through the words, community facility, so that the City would be able to have further hearings and deliberations on that point.

COMMISSIONER GUNZBURGER: Well, it says more than community facilities. It says related to the exclusion of penal, correctional, and re-entry facilities as a permitted use from most of the city's land use destination.

MR. LUNNY: Well, you know, as I said in the letter, I don't think that there's any sincere objection to keeping a penal, correctional, or detention facility out of a residential area or out of a commercial area or out of an industrial area. It's something that the County doesn't do. It's something that no city should do.

The only issue, as I understood it, was the application of this as to community facilities, the community facilities category, and we would like to take that back to our Council and have refinements in that regard.

UNIDENTIFIED SPEAKER: (Inaudible) the City --

COMMISSIONER GUNZBURGER: Well, I mean, when you just added industrial, I -- I'm at a loss, because industrial is an appropriate category for this type of facility.

MR. LUNNY: And industrial --

COMMISSIONER GUNZBURGER: And then when you already put that in, there is no way I -- unless Mr. Maurodis is going to give me a level of comfort -- I'm sorry, Mr. Lunny, you're not giving me that level of comfort.

CHAIR FISHER: Mr. Maurodis, can you --

MR. MAURODIS: Yeah, if I can. You're just, again, relying on the context under which we're operating. It's not like there is a lot of authority here. This is a determination of whether the amendment solely, in a very limited review, is the amendment consistent with goals, objectives, and policies of the Broward County Land Use Plan.

But since this is a text amendment, you don't need to get into zoning. So is it consistent with the goals, objectives, and policies. And there's no goal and objective or policy which it is conflicting with, so I just want to put that as a backdrop. But what we -- what we did is we took the very strong feeling of -- of this Board here, you know, its concerns to the City.

And in talking with Barbara, we concluded that the major area where, in zoning, where you would put a facility like this would be in a community facility zoned for it. And we felt that by stringing all the zoning districts together, including community facilities, where you would literally find penal institutions and these type of institutions, we were basically -- I think what this

Board was concerned with, zoning them out of the City.

So we indicated that we would be prepared to recommend the policy completely except that you could not zone all of these facilities out of the community facility zoning district. And, therefore, the certification would be such that it would be a provisional certification that would delete – in essence, you are not approving that part of this policy which says penal institutions and all the other institutions cannot be in community facilities. So it's as if that part of the policy is not there, on a legal basis.

COMMISSIONER GUNZBURGER: So we are deleting that.

MR. MAURODIS: Well, we --

MR. LUNNY: As to that category --

MR. MAURODIS: The words are still going to be written, but --

COMMISSIONER GUNZBURGER: But what -- I live in a city that has some of these halfway houses. Ms. Castro does, as well.

CHAIR FISHER: We all do.

COMMISSIONER GUNZBURGER: And we all do. And to have one city say you all can have it, but not in my city, I find that offensive.

CHAIR FISHER: We're going to take one at a time. I've got Ms. Good --

COMMISSIONER GUNZBURGER: I'm done.

CHAIR FISHER: -- and then Mr. Reinstein. Okay?

MS. GOOD: Thank you, Mr. Chair.

I appreciate the City's efforts in clarifying some of the comments that were made. With regard to Policy 1.6.8 in reference to educational facilities --

MR. LUNNY: Uh-huh.

MS. GOOD: -- I understand the clarification was made in the attached memorandum. My preference, though, would have been that that clarification be made in the policy itself, especially with regard to the educational facilities and the fact that it is not inclusive of public and private educational facilities. Again --

MR. LUNNY: I'm stuck with the language as it is because it was ordained. I'll commit to you on the record that the City will reevaluate that going forward, as well.

MS. GOOD: Well, and, again, it was ordained because it went already to the --

MR. LUNNY: It was -- these are passed by ordinance. These are -- this is part of a long process that involved multiple layers of review, and we're back at the tail end at this level. So, you know, we understand your concerns, and we're committed to look at them and to propose revisions to make it clear that it does not affect what are generally thought of as traditional public schools.

I'd like to reinforce to the Planning Council the -- the concepts of local Land Use Plans just for a moment. And that is that Broward County's Land Use Plan does indicate that each city has the authority to be more restrictive than the Broward County Land Use Plan, and all cities have power to even delete uses which might be permitted under the Broward County Land Use Plan. And that was a trade-off when all of the Charters were approved, so there'd be a balance of power between the County and the City, and the cities would not support that Charter and the Land Use Plan without retaining the power to be more restrictive.

So if other cities wish to amend their Comprehensive Plans and take the same action that Plantation has taken, they're more than free to do so. And, in this respect, we have followed the process. We meet the test for recertification, which is a very narrow scope of review.

We have heard your concerns. We have met with your staff, and we have made an agreement to take this issue as to community facilities and delete them.

If your concern is and if you believe that penal, correctional, and detention facilities should be allowed in a residential area, or should be allowed in commercial area, or should be allowed in an industrial area, and if that's where you want your jails, detention, and correctional facilities, then the Broward County Plan would have to be amended, which the Broward County Commission can do, and you'd have to go back and change the Land Use Plan which indicates that, on that one point only, cities could not be more restrictive.

And that, I would submit to you, creates a fairly significant political issue for all elected officials, be they municipal or County. So we've complied with your law. We're asking to be recertified, and we will -- we have agreed to

delete this one item as to community facilities, and we will indicate to you, on the record, that we will not apply the policy in a manner not intended by this language to traditional schools, and we will amend that when we come back.

CHAIR FISHER: Ms. Good, you still have the floor.

MS. GOOD: Yes, Mr. Chair, thank you. Just to staff, I just want to understand the language that they're saying will be looked at again within a year; is that inclusive of the term, educational facility?

MR. MAURODIS: That was not part of it, but if you would like to make that part of your provisional certification, that, I think would be a reasonable one, because I think there's probably language that we could create (inaudible).

MS. GOOD: That would -- that would be my -- my preference. Again, I -- I understand the clarification made by the attorney.

MR. LUNNY: I would --

MS. GOOD: I again -- Sir, I do still have the floor.

CHAIR FISHER: She has the floor.

MS. GOOD: I was -- I was speaking with regard to, again, traditional schools. I -- and, for that matter, private schools in regard to this educational facilities.

I understand the clarification made by the attorney, but I also understand, you know, if we had have received something from the City, maybe I would have a better -- is -- was the letter from the attorney or from the city?

MR. LUNNY: Yes. The -- I represent the City as its City Attorney, and I've been privileged to do so for quite a long time. And I have indicated to you --

MS. GOOD: Uh-huh.

MR. LUNNY: -- that this language does not embrace private or public schools in the traditional sense.

MS. GOOD: I hear what you're saying.

MR. LUNNY: So it would not apply in that way.

MS. GOOD: I hear what you're saying. So what I was trying to get from staff, is the attorney's letter binding to the City?

MR. LUNNY: Yes, it is.

MS. GOOD: I'm asking staff.

MR. MAURODIS: We would think that they would be estopped from applying it in any other way, as far as an educational facility. However, if you -- I mean, if you had a concern about it --

MS. GOOD: Yes.

MR. MAURODIS: -- and -- and you did want -- and I don't mean to make a distinction, but this one I think we should find a provision --

MS. GOOD: Absolutely.

MR. MAURODIS: -- in -- in our Code where I feel stronger --

MS. GOOD: Define it.

MR. MAURODIS: -- legal -- yeah, you know, expand on the stronger portion rather than where we don't have anything. And if you felt you wanted to provisionally certify this, or if you wanted to continue it or get a sense of the Commission, the Plantation Commission, before you did it, that's something you could do.

I take Mr. Lunny's word for it, because I don't think he would be sending that letter if he didn't have the authority. That would be -- that would be a bad career move for him. But you know, I do feel that this is a -- this is a -- of all the issues, not that everything isn't merited, but as far as our limited jurisdiction, I think we have stronger position on the educational facilities.

MS. GOOD: Thank you for clarifying that Mr. Maurodis, and I would like the education facility provision be included as well.

CHAIR FISHER: Okay. We'll do that at the time of the motion; okay?

MS. GOOD: Thank you, Mr. Chair.

CHAIR FISHER: Mr. Reinstein.

MR. REINSTEIN: Yes. Thank you. Thank you, Chair. This is interesting for me as a resident of Plantation because, in hearing some of the concerns from other members of the Council who don't live in Plantation, and who are faced within their cities penal facilities, jails, prisons, what have you, or halfway houses, whatever it may be, they are already in those -- in those

cities.

And, as -- as our Council attorney, Mr. Maurodis, has reminded us, and it's often reminded to Council members, is that while we may have certain opinions, and -- and we all do, there -- there is a certain limited position that we're supposed to take in terms of whether something is consistent with the Broward County Land Use Plan. And I recognize and understand the not in my back yard position that some people have raised, that why should Plantation be able to limit what is in Plantation when other cities did not do so previously and already have these facilities in their cities.

However, I do believe that what Plantation is trying to do and is presenting before us is consistent with the Broward County Land Use Plan, although I appreciate that they're willing to take another look at Policy 1.6.8, specifically, the reference to Objective 1.12, which is community facilities.

Because when we look at what type of location most of these facilities are in, I would think that they're usually in governmental, religious, and educational, and cultural facilities are included in that land use category. So I think that's why striking out that reference to that objective and focus -- and refocusing the attention on that part of the policy is -- is appreciated, and it does fulfill most of what the concerns were the last time this was before us. So based on that, and based on Plantation's ability to limit what other cities didn't previously do, I -- I will vote in favor of -- of this.

CHAIR FISHER: I have Ms. Graham and then Ms. Castro, and then Commissioner Mack. Ms. Graham.

MS. GRAHAM: Thank you, Chair Fisher. Just one question. As we've had certifications in the past, have we ever had one come before us where they -- the city requested to accept an item and have a -- a year to re-review it as opposed to just to recertify in the short term?

CHAIR FISHER: Mr. Maurodis?

MR. MAURODIS: We have -- we have a provision, a procedure called provisional certification that is a -- and that's what we're employing here, because we -- we strongly clear that there are concerns, we tried to -- within the framework of what we had, we thought provisional certification would be an easy way to handle it.

MS. GRAHAM: Okay.

CHAIR FISHER: Ms. Castro?

MS. CASTRO: I just have some comments, and then just a clarification of what the procedure is relative to the motion for the recommendation from the Planning Council staff. Last time I sat here, I sat here as an elected official. This time, I sit here as a resident or an elector, whatever we're going to call it. And I'll tell you what. The view is vastly different, but it's also very much the same.

I appreciate your comments regarding the Broward County Land Use Plan and municipalities' rights under there. But I'll tell you what. It's a real big slippery slope we're about to slide down. For instance, if a city didn't want community homes for people with disabilities, they could start excluding that. If people didn't want -- I don't know, Section 8 housing, they could try to exclude that. And Dania Beach is very privy to that where I live because we have Fort Lauderdale purchasing Section 8 housing in our City.

So I'd rather than have that in their city, than buy it in ours. If you had people, for instance, who didn't like any avenue of any kind of property or development, they could start excluding that. Now, there are some positive aspects to the Land Use Plan. For instance, one of the things I think most every city, obviously, tried to code out was pill mills.

And there's obvious differences between these two things, the two groups I'm mentioning. So there's pros and cons. My point to you is I understand your legal argument, but I was going down the trail with you, but then you opened a real slippery slope and you lost me a little bit. Having said that, from the staff's point of view, the motion that you're recommending --

CHAIR FISHER: Staff.

MS. CASTRO: That's okay. They're chatting. The motion you're recommending to exclude the recertification of that element which, basically, the way I'm looking at it, you called it provisional certification of the entire piece, but we're actually recertifying the entire text amendment with the exception of the community facilities piece, which will be provisionally approved to give you a year to work it out with them. So we're really not approving that element, so to speak, the public text amendment; is that correct?

MR. MAURODIS: And with the other request on the educational portion.

MS. CASTRO: And with education. I got that. But that's procedurally what we're doing.

MR. MAURODIS: They will not -- it will not be deemed effective.

MS. CASTRO: So they're not going to get the piece that they want effective until they have a year to work it out through you; is that correct?

MR. MAURODIS: Exactly.

MS. CASTRO: Okay. So any -- okay. And, more importantly, I think, to your point, we're here, unfortunately, in this recertification effort more as a ministerial duty. And, as I was telling Commissioner Gunzburger, I think she's in the right church in a pew, but she needs to get to the front pew of the altar, and probably the County Commission is the one that needs to really weigh in on this.

COMMISSIONER GUNZBURGER: And guess what? I will.

MS. CASTRO: Go girl.

UNIDENTIFIED SPEAKER: Well, what I should do is read to you -- that's one thing we were talking about (inaudible).

MS. CASTRO: Okay. Okay. So with that, I'm not going to have a problem recommending the approval of staff's recommendation along with School Board Member Good's recommendation it include the educational piece. But, again, I want to caution you on your future argument with the County. I would not stand up there and say a city can exclude whatever they want, because you're going to open a Pandora's box.

So I'm just giving you some -- and you can talk, Mr. Lunny, about me and my personality later -- I'm just giving you some friendly advice in presenting your argument at a later date, because I think you're going to lose some people on that one. Thank you very much, Mr. Chair.

CHAIR FISHER: Commissioner Mack now.

COMMISSIONER MACK: Yes. I am inclined to agree with you to a certain degree. In the City of West Park, because it's a new city, we have an opportunity to build the pieces in our City, and we have taken the stand of not having the halfway houses in the City and for a lot of reasons that are very family oriented and because of the element that it might draw.

So in the event that a city comes in and they stand or want to take the stand, that's that city's stand, and we have to not look at it from a personal point of view, but from a city point of view. And then in the city, I'm just sharing with you, that as a new city, they're making new laws and your criteria to live by. You take in accountability some of the things that these kind of elements bring to your City and whether it's a positive or a negative. So I'm inclined to

agree with him on that stand.

CHAIR FISHER: Commissioner Long.

COMMISSIONER LONG: Well, I have a quick question. I know in our City when we put forth an ordinance or something like that, and we know it's going to take a while to approve, we have the zoning progress that would pretty much prohibit anything in that area, that arena.

I'm wondering in this particular case it involves 1.6.8, that by certifying everything but, and the city going back doing that, they could then, you know, kind of put that in there and say, well, this is kind of like zoning in progress. So if you want to bring a halfway house in here, I'm going to tell you right now, we can prohibit that -- prohibit that, because we have this piece in progress and it, in theory, is in force now.

MR. LUNNY: No, we will not do that, and it's not applicable in this case. And I'd also like to point out, if I could, that this policy doesn't address other land use classifications within the City, so it's not as if we're saying it can't go anywhere.

And the -- while I -- you know, my view is that a community facility category might be appropriate for this classification. We might want to consider, for example, maybe a distance regulation from residential, or parcel size, so that we don't end up with these types of facilities that -- in an industrial or commercial type area, or residential area.

So by excepting community facilities, we have agreed that that needs to be looked at, and it will not be applicable to those served. So there will be no zoning in progress. It will not be effective, and it won't be effective until we come back and tell you how our discussions with our elected leaders have resulted.

CHAIR FISHER: Okay. Mr. DuBose?

COMMISSIONER DUBOSE: Thank you, Chair Fisher. Just to make a couple quick comments here. I'm glad to hear that Commissioner Gunzburger's taking this to the County. And just to add, this isn't something that's exclusive.

COMMISSIONER GUNZBURGER: We have a lot of it.

COMMISSIONER DUBOSE: We have way more and I'm going to look into Fort Lauderdale's Section 8 (inaudible). Maybe we're just running out of space so we just kind of crossed the street or something. I'm not sure. But --

MS. CASTRO: Crossed the airport.

COMMISSIONER DUBOSE: I just want to add that the Florida League of Cities has taken up this issue with this year's legislative agenda so -- and it actually came out of Palm Beach. So this is a really big issue. I'm -- you know, I'm not sure what will happen on the state level that then will trickle down and have an effect here. But it's good we're having this conversation. I understand that, you know, with what's within our jurisdiction, but the good thing is, you know, this conversation will prompt some other actions.

It does make it difficult when we do evaluate these -- these -- these issues, and then we're told, hey, you're -- you're within the jurisdiction, but then we're being given this information as a recommendation from staff. So, you know, we struggle with that, because, you know, what if my evaluation or some knowledge I have says something to the contrary, you know? So is it a recommendation or is it a mandate, you know?

So we're, you know, we're government jurisdiction, you know, do we just get a stamp that says yes, yes, every time. So that gets cloudy for me, but the good thing is that we're having the discussion. I just wanted to bring to the forefront that this is something it's throughout the state and, I'm pretty sure, throughout the country. But this year the Florida League will be taking this issue to Tallahassee. Thank you.

CHAIR FISHER: Thank you. Mayor Stermer?

MAYOR STERMER: Thank you, Mr. Chair. And to staff, if I may, procedurally, what happens in a year? Hypothetically, if Mr. Lunny and Plantation doesn't come back in a year, what happens to the provisional recertification?

CHAIR FISHER: Mr. Maurodis.

MR. MAURODIS: Yeah, it decertifies that portion.

CHAIR FISHER: It decertifies that portion.

MAYOR STERMER: Thank you.

CHAIR FISHER: Any further comments? I'm going to ask for the motion to recommend staff's recommendation with the inclusion of educational facilities.

MS. CASTRO: So moved.

MS. GOOD: Second.

CHAIR FISHER: It's been moved and seconded. Been moved and seconded. All in favor, say aye. Opposed? Motion carries. Thank you.

MR. MAURODIS: Mr. Chair, if I could, I think a lot of good points were raised, and I'm not just talking about that what you both said as far as working with the League of Cities (inaudible).

I'm recommending to any elected official who will listen that as much pressure be put on the federal government with regard to the interpretation of the Americans with Disabilities Act and the Fair Housing Act, because the most difficult things that cities will face, and I have been faced with it on a -- on a number of occasions, are the -- the rulings from federal district judges, which are pretty much very consistent against cities which indicate that for people in recovery, that is, recovering drug addicts or alcoholic, they have a right to live in a residential community.

This sounds very reasonable, but because these studies show that for people in recovery, it is better to have a minimum of 6 and many times 9 and 12, there are court decisions after court decisions which indicate that if someone goes and buys a house in a residential community, a quiet residential community, and wants to put 9 or 12 persons in recovery in that, with a chef and with all of that, as long as they're not giving them actual treatment there, that the cities must provide a reasonable accommodation to those persons.

That's the way the ADA and the FHA are now being interpreted in case after case. I'm sure a number of city officials have been facing it. But that comes from the federal level, and it is a very difficult thing to fight. And what that does is that you can have a beautiful residential community, families with young children, and right in the middle of it you can have nine recovering -- and obviously, they need a place to go, but do they have to be placed right in the -- the courts will tell you you have to do this.

And cities have fought that, and for all their trouble, they -- they've had to pay their attorney a half a million dollars and they had to pay the plaintiff's attorney a half a million dollars and damages and things like that. So I just wanted get that on the radar, because -- and you talk to your city attorney and they're aware of it, and it is a major, major problem.

COMMISSIONER GUNZBURGER: That's --

MR. MAURODIS: It is.

COMMISSIONER GUNZBURGER: -- that's not the only one. What about Arapahoe, where a religious institution, they're right in the middle of the residential neighborhood.

MR. MAURODIS: That's exactly right.

COMMISSIONER GUNZBURGER: And we talk about disruption, religious institutions have services.

MR. MAURODIS: Parking is troublesome.

COMMISSIONER GUNZBURGER: And parking becomes very difficult for people who live in those neighborhoods. And you can do nothing, absolutely nothing about a religious institution that buys a private home and opens up a church or synagogue, and it cost the City of Hollywood over a million dollars to try to fight it, and lost because of that.

MR. MAURODIS: But that is the federal level.

COMMISSIONER GUNZBURGER: That's right, so that --

CHAIR FISHER: Counsel, thank you for your comments and --

MR. LUNNY: All I just want to say is thank you. We'll be back, and we intend to work on it.

CHAIR FISHER: We'll see you soon.

MR. LUNNY: All right. Bye-bye.

CHAIR FISHER: Thank you.

VOTE PASSES UNANIMOUSLY.

AGENDA ITEM PH-4

CHAIR FISHER: We are now under PH-4. Ms. Boy.

MS. BOY: Good morning. This is the second Public Hearing on the proposed text amendment to the Broward County Land Use Plan addressing recreation open space.

As you may recall -- many of you may recall, last year the staff presented an open space study or survey. That was presented to a subcommittee and then these recommendations in Attachment 1 are what came forward at that

time to address the concerns that were brought forward in the study. Planning Council staff continues to recommend approval of the proposed amendment.

And, like I said, it is the second Public Hearing, so it was considered by the County Commission in September and forwarded to the state for agency comments, and those comments were received at that time. So I think, Mr. Chair --

CHAIR FISHER: Mayor Stermer, did you have some questions about this item?

MAYOR STERMER: I did. And with -- it's with regard to the definition of and the application of conservation area. They're not counting anything if it's not open to the public, from the letter that was sent on the behalf of the City of Weston dated 8/26 -- seeks to write language at the end. That specific language is when public access is not provided, 50 percent of the total acreage designated for the Future Land Use map, plan map, were indeed restricted as conservation may be counted toward the municipal park requirement.

You have, in a number of municipalities, conservation areas that are governed by federal permits and things of that nature. And to start to allow the public into some of those areas could jeopardize some of those permits. That doesn't mean that those conservation areas aren't used on their outer edges for observation and viewing, so the public is enjoying them. To get zero credit for them doesn't seem logical, especially when a few years ago we had a policy where the County went out, we did a bond and built open space and conservation areas.

And to say you get zero credit because the public isn't entitled to go into them, part of the purpose was to protect the -- those certain areas. And to count them -- not count them at all, doesn't seem right. In addition, I'll give you a for instance. In the City of Weston, on our western edge, we had a rather large conservation area that is governed by a host of Army corps permits.

The South Florida Water Management District is contemplating building an impoundment area, and it would -- it's proposed, let's put it that way -- to allow the public to use the top half-- top part of the berm if they build a conser -- build the common area for bike riding and other things. So the public would be allowed to enter it.

So how do we keep up with this? One minute, we're going to say they're not counting it, and then a few years after the common area is built, then bring it

back and say we're counting it? So the question becomes the application of conservation area and giving it zero credit if it's not open to the public.

CHAIR FISHER: Understood. Mr. Maurodis?

MR. MAURODIS: Yeah, when we tried to -- and we really don't have objection to the well thought out recommendations that have been referred to, but that it is something we considered. We thought about it.

CHAIR FISHER: Hold on.

MR. MAURODIS: -- (inaudible). There are certain areas you don't want people. I mean, you don't want to allow them in, that's when you use language it's readily accessible for use by residents of the municipality and the public or for recreation or environmental purpose intended. And sometimes, it's just the ability to see it, to know it's there and that type of thing.

And maybe what you're saying, the Mayor said, that it could have been more artfully worded to broadly do it that way. But that was certainly our focus there.

MR. STERMER: And I would say provided it's clear that the intent is to allow, that it should be counted, while understanding the public may not have access to it. I'm okay with that. I just want it to be clear that the intent is to be able to count that land even if the public isn't physically allowed inside that conservation area.

MR. MAURODIS: Yeah, I think --

CHAIR FISHER: Right.

MR. MAURODIS: -- we're setting part of the record, and as your counsel, I am committing to you -- and I see shaking heads. But as your counsel, I am -- I am committing to that interpretation, absolutely.

CHAIR FISHER: And, Mayor, it was really several, several months of meetings and sub-meetings to come up with this. And so we appreciate that, I think, just for the record. Ms. Good.

MS. GOOD: Yes. I also -- I couldn't agree with you more, Mayor Stermer. And that was part of discussion at the task force. I think, you know, we were all nodding our heads because we also value conservation areas and understand that, although the public may not have the opportunity to utilize them as -- as a park area, they do provide a -- a purpose and a value to a

community, and -- and certainly to a municipality or to the County.

So I think that that was part of the discussion, that we said that they would be inclusive. And I think we also mentioned something along the lines of maybe properly identifying some way so that the general public could understand that it's part of an open area, conservation area, and not just an open field area. Did we not talk about some kind of identification signage?

MS. BOY: Yes. Conspicuous signage. I think the application of that would assist in the concerns.

MS. GOOD: But the intent was, as I recall, was to -- to include it as part of the (inaudible).

CHAIR FISHER: Discussion?

MS. CASTRO: And just to clarify, to include it a hundred percent; correct?

MR. MAURODIS: Yes.

MS. CASTRO: Because we had a big discussion about what public access meant.

MR. MAURODIS: Uh-huh.

MS. CASTRO: Physical access, or is it environmental needs versus educational. So we spent a lot of time making sure that -- and -- we, in particular, and I know School Board Good, areas of conservation have to be part open green space. Has to be. That's what we're all about. Besides the potential you have for water, which is a huge issue in this area, as well. So we have to make sure we do that. So, yeah, for the record, all of that was said for the record.

CHAIR FISHER: Mr. Hobby.

MR. HOBBY: Yes. On a different issue, the --Attachment 2 from Coconut Creek asking for modification

MS. BOY: Where are you --

MR. HOBBY: Oh, I'm sorry. In reference to Attachment 2, the letter from Coconut Creek asking for a modification which --

MS. BOY: Which --

MR. HOBBY: What's staff's position on that?

MS. BOY: Right. Staff's position on that was consistent with the recommendations of the recreation and open space committee. We felt that the private golf course language and the changes they asked for weren't really warranted, because the removal of private golf course was not going to impact their open space acreage and take them out of compliance with the County requirement.

MR. HOBBY: You anticipated my next question, so --

MS. BOY: Oh, okay. Actually, it's outlined in the planning analysis.

MR. HOBBY: Yeah.

MS. BOY: So they would still continue to have more than sufficient acreage to -- with their projected population, as well.

MR. HOBBY: Do you know of any municipality that might run afoul of it?

MS. BOY: There's -- no. There was only two municipalities impacted by the removal of the private golf courses, and that was Coconut Creek and Coral Springs, who submitted correspondence on --

MR. HOBBY: Is there --

MS. BOY: -- two and three. Coconut Creek is in the position where they will actually lose acreage by removing the private golf course from -- but, like I said, they would still continue to be in compliance and beyond compliance. Coral Springs was the other city that has private golf courses right now on their inventory, and it will result in no net loss to Coral Springs, because they have so much open space acreage in their inventory, that they didn't even need those golf courses to come anywhere near their requirement.

MR. HOBBY: Okay. I suspected, but I just wanted to get that on the record.

MS. BOY: Right. There's no other private golf courses in the County that we found that are listed on the community statement -- sorry, the community parks requirement.

MR. HOBBY: Thank you.

CHAIR FISHER: Any further comments? Is there a motion?

UNIDENTIFIED SPEAKER: So moved.

MR. BASCOME: I'll make a motion.

MS. CASTRO: Second.

CHAIR FISHER: Moved and second. All in favor, say aye. Opposed. Motion does carry.

VOTE PASSES UNANIMOUSLY.

OTHER BUSINESS

CHAIR FISHER: That concludes our agenda. Just make note, Council, that our next meeting will be on January 24th in the new year.

Again, welcome to the new members. We look forward to working with you. This will be officially my last meeting as Chair. I've had the privilege of chairing for two years for this Council.

Next meeting, we'll have elections of new officers. But it really has been a unique pleasure serving at this level and serving you as your Chair. So I appreciate the opportunity. Happy holidays to everybody.

UNIDENTIFIED SPEAKER: Thanks.

UNIDENTIFIED SPEAKER: Same to you.

ADJOURMENT

CHAIR FISHER: And we'll see you next year. All right. This meeting is adjourned.

(The meeting concluded at 10:53 a.m.)