

MINUTES
BROWARD COUNTY PLANNING COUNCIL
September 22, 2011

MEMBERS Mayor Lamar Fisher, Chair
PRESENT: Commissioner Anne Castro, Vice Chair
Tim Bascombe
Vice Mayor Bobby DuBose
Kenneth Fink
Mary D. Graham
Dan Hobby
Commissioner Michael S. Long
Sharon P. Ragoonan
Commissioner Lisa Mallozzi
Mayor Sue Gunzburger
Commissioner Keith London
Commissioner Rita Mack
Vice Mayor Claudette Bruck
Frederick Burton
Louis Reinstein
Mayor Michael Udine

MEMBERS School Board Member Patricia Good
ABSENT: Sara Case

ALSO Henry Sniezek, Planning Council Executive Director
PRESENT: Andy Maurodis, Legal Counsel
John Stagnari, Environmental Compliance Administrator
Dennis Mele
William Moritz
Cynthia Strachan-Saunders
Dave Baber, Historic Preservation Coordinator for Broward
County

A meeting of the Broward County Planning Council was held at 10:00 a.m. on Thursday, September 22, 2011, in Room 422 of the Broward County Governmental Center, Fort Lauderdale, Florida

CALL TO ORDER:

Chair Lamar Fisher called the meeting to order.

CHAIR FISHER: Good morning, everybody. I'd like to call to order the Broward County Planning Council meeting this Thursday, September the 22nd, 2011, at 10:00 a.m.

PLEDGE OF ALLEGIANCE:

You're asked to please stand for the Pledge of Allegiance.

ROLL CALL

Following Roll Call by the Transcriptionist, the Chair declared a quorum present

CHAIR FISHER: Just for the -- for the sake of the Council, we obviously enjoy the refreshments, but please don't forget to make a donation to our -- our tin cup over there. I think it's getting kind of low again, so we need to replenish that on behalf of the (inaudible). Henry, just for the record, we don't have any anyone on the phone; correct?

UNIDENTIFIED SPEAKER: No. He's in the kitchen.

MR. SNIEZEK: No.

CHAIR FISHER: Very good. Mr. Cooper is not with us, so we'll move on to the Oath of Office. It's indeed a privilege as Chair on behalf of the Council to be able to do a swearing in of our newest member, Mr. Frederick Burton. So if you'd please come forward, and we'll have an official Oath of Office. Okay. Please repeat after me. I do solemnly swear --

MR. BURTON: I do solemnly swear --

CHAIR FISHER: -- that I will support --

MR. BURTON: -- that I will support --

CHAIR FISHER: -- protect, and defend the Constitution --

MR. BURTON: -- protect, and defend the Constitution --

CHAIR FISHER: -- and government of the United States --

MR. BURTON: -- and government of the United States --

CHAIR FISHER: -- and of the State of Florida --

MR. BURTON: -- and of the State of Florida --

CHAIR FISHER: -- that I am duly qualified to hold office --

MR. BURTON: -- that I am duly qualified to hold office --

CHAIR FISHER: -- under the Constitution of the State --

MR. BURTON: -- under the Constitution of the State --

CHAIR FISHER: -- of Florida, Broward County --

MR. BURTON: -- Florida, Broward County --

CHAIR FISHER: -- and I will well and faithfully perform --

MR. BURTON: -- and I will well and faithfully perform --

CHAIR FISHER: -- the duties of member of Broward Planning Council --

MR. BURTON: -- the duties of member of Broward County Planning Council --

CHAIR FISHER: -- of which I am about to enter --

MR. BURTON: -- of which I am about to enter --

CHAIR FISHER: -- so help me God.

MR. BURTON: -- so help me God.

CHAIR FISHER: Very good. Congratulations.

CHAIR FISHER: Mr. Burton is a -- is the appointee by Commissioner Barbara Sharief. So we bid you welcome, welcome you to be part of this esteemed group.

CONSENT AGENDA

CHAIR FISHER: Now move into our Consent Agenda, items C-1 through C-4. Obviously, we'll include the excused absences, which is, of course, School Board member Good, who is in a meeting all day today. Is there a motion?

MAYOR UDINE: Motion to approve.

MAYOR GUNZBURGER: Second.

CHAIR FISHER: Just for the record, for Nancy, our reporter, could you state your name when you make a motion or second? So Mayor –

MAYOR UDINE: Mike Udine.

CHAIR FISHER: -- Udine made the motion.

MAYOR GUNZBURGER: And I seconded it. Mayor Sue Gunzburger.
CHAIR FISHER: Mayor Sue Gunzburger. Any discussion? All in favor, say aye. Opposed? Motion does carry.

VOTE PASSES UNANIMOUSLY.

REGULAR AGENDA

R-1 PERFORMANCE REVIEW: PLANNING COUNCIL ATTORNEY

CHAIR FISHER: Now we're on our Regular Agenda, R-1, performance review of the Planning Council Attorney. Again, I've had the privilege of making a recommendation on behalf of our Council Attorney. Does anybody have any questions or concerns?

COMMISSIONER MALLOZZI: (Inaudible.)

CHAIR FISHER: Do whatever you wish.

COMMISSIONER MALLOZZI: Again, in our Executive Committee meeting this was stated and I'll just state it for this meeting, also. The letter that Mayor Fisher wrote was phenomenal and said everything, and we are grateful to have you. And thank you for all that you do.

CHAIR FISHER: Thank you very much. Very good.

Commissioner London, yes.

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COMMISSIONER LONDON: I just want to say it's been a real pleasure, and I've just been serving on this Board since December of last year -- this year, I should say, and working with Mr. Maurodis and Mr. Sniezek and the whole Planning Council has been a real pleasure, and I think the Chair did a fine job writing this letter.

So it's really been an honor and opportunity to learn from these people. And I appreciate this opportunity, and thank you to Mayor Gunzburger, and I look forward to serving with you.

CHAIR FISHER: Mayor Udine.

MAYOR UDINE: I think I will do both of them together.

CHAIR FISHER: We're doing one through three right now.

COMMISSIONER MALLOZZI: One then the other.

MAYOR UDINE: Okay. But I'm going to mention both of them together, also, because this way I don't have to talk again next time. I get to work with Andy twice, because he's our City Attorney in Parkland. And I have learned so much from Andy. He's a great attorney for this Planning Council. He's a wealth of institutional knowledge, and I look forward to working with him in the future.

And I served on other boards Countywide and -- and the like. You're never more -- for people who don't serve on other boards, Henry's just -- I mean, you're never more prepared for these meetings than -- I get more emails from Henry half the time than I'd like to get from Henry. Everything is laid down and broken up perfectly. So thank you guys both for providing the service to Broward County that you do.

CHAIR FISHER: Very good. Any more discussion? Commissioner Long.

COMMISSIONER LONG: I'd just like to second what you said. I've had the opportunity to be in city government now for 12 years, and -- and you guys are absolutely amazing. You know, Andy, you just have that answer; if not, you can find it. You do a great job separating, you know, the City from Planning Council, so people are clear on that. We had some discussions on that earlier.

And, you know, I think the whole staff of the Planning Council, of course, you know, led by Henry, is just amazing. The information we get is amazing, and, again, 12 years in government, I can tell you you're an exception. You're a fantastic exception. So hats off to you.

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CHAIR FISHER: Very good. Is there a motion to accept the –

COMMISSIONER CASTRO: I'll move it.

COMMISSIONER MALLOZZI: Second.

CHAIR FISHER: -- performance review? It's been moved and seconded.

COMMISSIONER MALLOZZI: Second by Commissioner Mallozzi, moved by Commissioner Castro.

CHAIR FISHER: Discussion? All in favor, say aye. Opposed? Motion does carry.

MR. MAURODIS: Thank you very much for your kind words.

VOTE PASSES UNANIMOUSLY.

R-2 PERFORMANCE REVIEW: EXECUTIVE DIRECTOR

CHAIR FISHER: Moving on, then, to R-2, that's the –

COMMISSIONER CASTRO: Move to approve R-2.

COMMISSIONER MALLOZZI: Second.

MAYOR UDINE: Second.

CHAIR FISHER: Moved and second.

VICE CHAIR CASTRO: Ann Castro, motion.

MAYOR UDINE: And Lisa Mallozzi beat me to the second.

CHAIR FISHER: All in favor, say aye. Opposed? Motion does carry. Thank you, gentlemen, for your hard work on behalf of us.

VOTE PASSES UNANIMOUSLY.

R-3 LOCAL PLANNING AGENCY REVIEW: PROPOSED REVISIONS TO THE BROWARD COUNTY CODE OF ORDINANCES, CHAPTER 27, ARTICLE I, "NATURAL RESOURCE PROTECTION ORDINANCE" GENERALLY PROVIDING FOR THE UPDATE OF THE ADMINISTRATIVE AND ENFORCEMENT PROCEDURES, INCLUDING THE UPDATE AND CLARIFICATION OF SEVERAL DEFINITIONS

CHAIR FISHER: R-3, Henry.

MR. SNIEZEK: Good morning. R-3 is a local planning agency review. There are changes to the County ordinance regarding administrative and enforcement procedures which the environmental regulatory programs operate.

This was reviewed by the Land Use Trafficways Committee just prior to this meeting, and the vote was 6 to one to find the changes generally consistent with the land use plan.

CHAIR FISHER: Very good. Again, for the record, Vice Mayor DuBose has just joined us. So, discussion, R-3? Commissioner London.

COMMISSIONER LONDON: Can I ask a question of the attorneys? My -- my question is -- was -- and (inaudible) for asking these questions (inaudible). They -- they talk about a monthly report. How often has the monthly report been in place? Do they know a cumulative amount of money that's been spent or reported as being under the -- under the \$15,000?

CHAIR FISHER: All right. First come forward and you can just state your name for the record.

MR. STAGNARI: John Stagnari. I'm with the Environmental Protection Growth Management Department. The monthly report is actually sent by the County Attorney's Office, not by our office. I don't have the cumulative dollar value today and how much is sent.

But, as I mentioned earlier today, settlements reached between the County Attorney and the Respondents that are within the County Attorney's threshold are sent on a monthly basis to the Board, notifying them of the results of that settlement agreement. And that was resolved first going through a hearing. So I don't know the dollar value of it, and, again, it's not sent by our office, it's sent by the County Attorney's Office. (Inaudible)

COMMISSIONER LONDON: A follow-up?

CHAIR FISHER: Sure.

COMMISSIONER LONDON: Are you aware how often from your department that this has been forwarded to the County Attorney?

MR. STAGNARI: What are you talking, notifications of settlements?

COMMISSIONER LONDON: Yes.

MR. STAGNARI: Well, I don't -- I don't have a number to give you, but in terms of the number of notices of violation issued in any particular year, that would be subject to that type of settlement agreement. I would say maybe we issue 50 a year and -- of which three-quarters probably wind up in some type of settlement agreement.

So once the matter is resolved, they get a copy of that settlement that are sent to the Commissioners notifying them of the results. I'm not sure if that answers your question, but it's not a lot. It's not what I would call a high volume. As I mentioned earlier, the notices of violation are not the largest part of our enforcement program, but they are reserved for the most serious violations.

COMMISSIONER LONDON: If I'm hearing you correctly, was that 50 at the settlement where the attorney thought they would settle it for the \$15,000, or is that 50 that you just issued violations?

MR. STAGNARI: 15,000. 15,000.

COMMISSIONER LONDON: Right. But you said 50, maybe potentially --

MR. STAGNARI: Oh, we issue about -- again, I don't have the statistics in front of me, but roughly maybe 50 notices of violation a year.

COMMISSIONER LONDON: But are they all coming to a settlement? Is your office settling those? That -- that's my question. Of that 50, are you settling those 50 at the \$15,000 prior to turning to -- to the Board?

MR. STAGNARI: It only goes to the Board if the value of the claim is in excess of \$15,000 to get prior approval. If it's \$15,000 or less, the County Attorney has the authority to resolve it under Chapter 1 of the Broward County Code.

The ones the County Attorney resolves under her authority are sent on a monthly basis to the Commissioners, notifying them that I've resolved these matters, or I've settled these matters.

COMMISSIONER LONDON: I understand that, but maybe I'm not asking you correctly.

MR. STAGNARI: I'm --

COMMISSIONER LONDON: So jump in here, because I'm trying to get at --

MAYOR GUNZBURGER: I can –

COMMISSIONER LONDON: -- a dollar number. So if you're doing 50 times the 15,000 –

MR. STAGNARI: But they're not all at 15,000.

MAYOR GUNZBURGER: No. Some are a lot more, and some are a lot less.

COMMISSIONER LONDON: The ones that are more have to –

MAYOR GUNZBURGER: All come to us.

COMMISSIONER LONDON: -- get Board approval.

MR. STAGNARI: Yes.

COMMISSIONER: I -- I under -- I'll stop. I -- I was just curious about it.

MR. STAGNARI: I'm sorry if I'm not answering the question. I'm trying to.

COMMISSIONER LONDON: If -- I'm just trying to see if –

MAYOR GUNZBURGER: Commissioner London?

COMMISSIONER LONDON: -- Mayor, let me just -- this is what you're saying. If we're -- if we're giving the authority, because now you're asking for 25, if there's ten cases here that could be a cumulative number of \$250,000. If it's 20 cases a year, that's a half a million dollars. If it's 30 cases, and so on and so forth. So if there's 50 of them, I -- I get you -- you know, 25,000 in and of itself is not a big number, but if there's 50 of them –

MR. STAGNARI: The cumulative effect.

COMMISSIONER LONDON: -- then it becomes a very large number. That - - that's what I was -- that was my underlying question.

MR. STAGNARI: I got it. If I understand it correctly, is the question how many agreements including the \$15,000 and the \$25,000?

MR. REINSTEIN: I think that was the question.

COMMISSIONER LONDON: Correct.

MR. STAGNARI: Is that really the way it's being phrased? I don't have the

number, but I don't think it's going to be a lot. I don't have that number in front of me, but I don't think it's going to be very many.

We just believe this is an efficiency, as mentioned earlier, that every time as we reduce resources, we try to do more with less. And we believe this is an efficiency that is beneficial. And, again, it's something that the County Attorney is supportive of, and it's something we're prepared to bring to the Board to get their -- their approval for.

COMMISSIONER LONDON: Thank you. Thank you, Mayor.

CHAIR FISHER: Yes, Ms. Ragoonan first, but just if you would, when you find out that number, would you provide it to Henry, and he can distribute it to Council for information purposes. Ms. Ragoonan and then Mr. Reinstein.

MS. RAGOONAN: It's more -- again, more administrative. I notice throughout -- part of the process if you manage to achieve service, you know, of the responsible party and/or the property owner, and then you said, subsequent mailings will be done through regular mail. How does that satisfy Chapter 162?

MR. STAGNARI: That particular provision was written by the County Attorney's Office. Unfortunately, the County Attorney assigned to the matter had a prior meeting at this time and couldn't make it. But it's -- my understanding is it meets all State Statutes in terms of service, which is once you have initial service of the enforcement action, either by certified mail or hand delivery, any further communication with that Respondent can be by regular mail.

And in most instances, it might have to do with simply exchanging correspondence or a copy of the settlement agreement that's being proposed. In some instances, it might be the continuation of a hearing, meaning rather than having a hearing heard on one day, it's being moved to another.

And rather than doing all of that through certified mail, and as long as they've provided us with the name and address of who represents them, it can be done through regular mail. And it's my understanding is that -- that conforms with the legal requirement.

MS. RAGOONAN: So then you won't rely strictly on regular mail. It depends on the type of communication, the dialogue that you're having with the alleged violator.

MR. STAGNARI: Right. The initial service is usually through certified mail,

which is the issuance of the Notice of Violation. And that's usually done with return of the green card.

MS. RAGOONAN: Okay.

CHAIR FISHER: Very good.

MS. RAGOONAN: And just one other thing. Regarding the posting, I notice that you show that you have an Affidavit of the posting. Will your enforcement officer also take a picture of the posting, just in case, you know, that becomes, you know, something that's disputed?

MR. STAGNARI: Well, we also -- we also have the Affidavit, and what we are proposing in this particular change is right now when we have to do alternative service, the posting happens in this building here, right outside of the door, in fact. Because our regulators are now located at Government Center West, what we're proposing is that that posting be done at that County facility rather than here.

MS. RAGOONAN: So you're not going to do the posting at the actual location --

MR. STAGNARI: There as well. If the violation happens on a particular parcel of land, we're obligated to do the posting on the parcel as well.

MS. RAGOONAN: Okay. And then if somebody wanted -- you have a question here or a section here talking about going through successive supervisory levels to resolve. At what point does that stop? Because if you -- if somebody goes through a succession of meeting different people, then they just get bounced around, so --

MR. STAGNARI: That's right.

MS. RAGOONAN: -- what are the actual established protocols to really resolve it so that it gets --

MR. STAGNARI: That falls under our administrative review section. And that usually applies when someone is challenging the decision we made, most notably the issuance of a license or an approval. Most -- they're usually licenses. We get very few of them, but the ones they do, you can -- you can challenge a decision made by the staff through the chain of command until what's called the final agency determination is made.

And that's usually made at the Division Director level. But the person has the right to go up through the chain of command. And once the final decision is

made and they have notified in writing of that final determination, they have so many days to challenge it through an administrative process before our Hearing Examiner. And then they're entitled to a hearing to make sure the decision we made was not arbitrary and capricious, and consistent with the -- with code.

MS. RAGOONAN: Okay. And in terms -- can you just explain the section on non-native plants? Because I noticed that there was fines related to certain size non-native trees, and I thought that was unique. And are you going to just cite them, or are they going to be required to replace non-native trees with a native --

MR. STAGNARI: Well, there are replacement requirements for trees, and we have some violations that fall under our citation schedule. And they fall under that schedule because we determine them to be non-substantial violations of the code, and therefore, they're subject to citation.

Right now, the Board has already approved and it's part of the ordinance that if you were to remove a certain amount -- I think it may be five. I don't recall off-hand -- that, if the violation doesn't exceed that threshold, we can issue the citation in order to get compliance.

And all we're doing is changing it to say that in addition to failing to replace trees, there are some other monitoring and maintenance requirements that -- to small amounts of trees that should also be subject to citation, because we believe that's the most efficient way, at this point, to gain compliance, rather than going through another enforcement tool we have, which is Notice of Violation. We tend to reserve those for the more serious violations.

MS. RAGOONAN: And the other request I have is, when you have a chance, I notice you use citations as well as violation, if it's possible we could get a flow chart so I can really see how that flows in terms of enforcement and administrative function.

MR. STAGNARI: Okay. I -- I can tell you this for, the moment, is that there is a schedule of violations that are subject to citation. In most instances, we're obligated to give a warning notice to the violator, which is an opportunity to correct the violation without penalty.

That warning could escalate to a citation if you don't comply. And then from the citation, it could escalate to a more serious violation, which is the Notice of Violation.

So most of our enforcement actions actually in any given year are warnings. It's an opportunity for the violator to fix the violation prior to

receiving a -- an enforcement action that carries a penalty. I mean, I'd say maybe five percent of our actions are at the citation level, which is penalties up to \$500 per violation. And I would say probably three to four percent of all of our actions are notice of violation to more serious violations.

CHAIR FISHER: Any other -- Mr. Reinstein, Mayor Gunzburger, and Mr. Fink.

MR. REINSTEIN: Thank you, Mayor. And -- and thank you, Mr. Stagnari. I appreciate your being up here and explaining this to us. And as was already reported, this was previously discussed in the Trafficways plan -- Committee meeting, and the reported was voted at 6-1, and I wanted to just take a moment -- I was the one no vote -- to bring that to this -- this Council's attention is that my no vote was and still will be based on Section 27-34 regarding settlements, Subsection C, which is page 24 in our material in relation to the recommended increase from 15,000 to \$25,000 in authority to the County Attorney to -- to settle the matter.

And what -- what was previously discussed, and I want to bring it forth to the -- the Council, is that the basis for increasing from 15,000 to 25,000 was to save administrative expenses and -- and based on consideration of inflation. And while I understand the necessity for an attorney -- for our attorney to have authority to settle matters and not have to go back and forth with -- with the client, in this case being the people, I -- I do believe that even with inflation, \$25,000 is a -- it's a high threshold.

And since \$15,000 is the max for a single violation, we're talking about over 15,000, as high as 25,000, and this was really a -- also something raised by Commissioner London who said unless I can understand better as to how many instances we're talking about where it's reached 25,000, I'm afraid that granting the County Attorney that authority without the value of public oversight, I don't see as reaching its requirement to override that value. So at this point, I still will be voting against any motion if it's made to approve this language.

CHAIR FISHER: Very good. Mayor Gunzburger.

MAYOR GUNZBURGER: Really, the number of violations over 15, or even over 25, are very few and far between. Some are as low as \$300. So that we get that in our monthly report from the County Attorney.

And I think it also saves the litigant money by not having to come before the

County Commission. It -- it -- when they have a violation that's that serious, 25,000 today seems like a reasonable threshold. And I'm going to support it as it is written.

CHAIR FISHER: Mr. Fink.

MR. FINK: Question. From the time you initiate a Notice of Violation to the time it's resolved, how long does that typically take?

MR. STAGNARI: I would say on the average probably six months. Some could be more; some could be less, because when we issue a Notice of Violation, oftentimes corrective action's required. It's more than just penalty. For instance, and I mentioned it earlier today, if you impact a wetlands without authorization, in addition to facing a penalty, you'll -- you'll have to do corrective action. You've got to mitigate for that impact. And sometimes it takes a while to negotiate the terms of that corrective action.

So I -- I'm going to use as a rule of thumb, I'd probably say roughly six months. Some can happen quickly if it's only penalty, but if there's extensive corrective action, maybe things that are costly, it may take a little longer to -- to negotiate.

MR. FINK: If it's nothing other than a penalty, then how long does that take to resolve?

MR. STAGNARI: I would venture to guess a couple of months, because it's purely just a question -- usually there's a settlement conference, and then Notice of Violation is issued. They come in and they meet with us as well as the County Attorney, who represents us, and there's a negotiation and then it's just a question of preparing the paperwork. It's got to be reviewed by the County Attorney.

If it's something that has to go to the Board, then we obviously have to prepare an agenda and it goes through the agenda review process. But presuming it's plain vanilla, then I would say a couple of months.

MR. FINK: Thank you.

CHAIR FISHER: Ms. Graham.

MS. GRAHAM: Thank you, Mayor Fisher. My question -- I need the mic turned on for this. My question is -- are these violations posted anywhere on the Broward County website, other than outside these offices, like you mentioned?

MR. STAGNARI: When you say, posted, we do have an environmental

database, and people can search that environmental database and find them.

MS. GRAHAM: Okay. So from the initial citation where the -- a registered letter is sent or after that point?

MR. STAGNARI: All of our enforcement actions are part of the database that's searchable. It's a database program, so anybody can go onto that database, that search engine, and look to find out what citations, what warning notices, and what ARBs we've issued through that database.

MS. GRAHAM: And, likewise, a settlement once it's closed?

MR. STAGNARI: Yes, because once the matter is resolved, you can find out the disposition of that enforcement action.

MS. GRAHAM: Thank you.

CHAIR FISHER: Very good. Is there a motion –

COMMISSIONER MALLOZZI: So moved.

CHAIR FISHER: -- for the recommendation –

COMMISSIONER CASTRO: Second.

CHAIR FISHER: It's been moved and seconded.

COMMISSIONER MALLOZZI: Mallozzi, Castro.

CHAIR FISHER: There you go. All in favor, say aye.
Opposed? Vote is (inaudible) at one –

COMMISSIONER MALLOZZI: Two.

COMMISSIONER LONDON: Opposed.

MR. BURTON: No.

MR. REINSTEIN: No

CHAIR FISHER: We have two opposition. Commissioner London --and Mr. Reinstein. Mr. Burton. Very well. We have three noes. Motion does carry.

VOTE PASSES 15 TO 3 WITH COMMISSIONER LONDON, MR. BURTON,

AND MR. REINSTEIN VOTING NO.

R-4 UPDATE: PROPOSED YEAR 2012 AMENDMENT APPLICATION DEADLINES

CHAIR FISHER: R-4.

MR. SNIEZEK: R-4 was also reviewed by the Land Use Trafficways Committee and was unanimously recommended for approval. It's a request to change the Planning Council's amendment submittal deadlines.

As you may know, the State law regarding amendment submittals changed. It used to be twice a year our application deadlines were used, so we're asking the Council just basically to delete the twice a year submittal deadlines and allow applications to be submitted as they're requested by the cities.

CHAIR FISHER: Any discussion on this item?

MAYOR GUNZBURGER: Gunzburger moves it.

COMMISSIONER LONDON: Second.

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

VOTE PASSES UNANIMOUSLY.

R-5 COUNSEL'S REPORT

CHAIR FISHER: Mr. Maurodis, Counsel Report.

MR. MAURODIS: I have nothing, Mr. Chair.

R-6 EXECUTIVE DIRECTOR'S REPORT

CHAIR FISHER: Henry, Executive Director's Report.

MR. SNIEZEK: Thank you. I have a number of things; I'll try to go through them quickly. First, thank you very much for the generous evaluation.

Secondly, I want to thank Barbara for sitting in for me at the June meeting. She came through when I called her up at 8:00 o'clock the night before and told her about my eye problem. And I'm fine, by the way. Appreciate everybody's concern. But Barbara did a great job, and I want to thank her for

that, on the record.

CHAIR FISHER: She never missed a beat.

- **November/December Combined Meeting Date**

MR. SNIEZEK: The next thing is something that was emailed to you and there's also a hard copy in your chair today that a memo about the November/December meeting. We polled the members on which date would be preferable, November 17th or December 1st, and it looks like December 1st had 17 confirmed. November 17th is 15 members. In the past, the Council has picked the day that had the most confirmed members, but –

CHAIR FISHER: Close count.

MR. SNIEZEK: -- it's up to the Board.

CHAIR FISHER: Anybody have any discussion concerning whether we go in November/December? Commissioner Mallozzi.

COMMISSIONER MALLOZZI: There's a -- Florida League of Cities has their legislative meeting on the November date, so a number of people can't do it because of that.

CHAIR FISHER: Motion to move it to December 1st.

VICE CHAIR CASTRO: So moved.

COMMISSIONER MALLOZZI: Second. Castro, Mallozzi.

CHAIR FISHER: It's been moved and seconded to meet on December the 1st. All in favor, say aye. Opposed? The motion does carry. Thank you, Henry.

VOTE PASSES UNANIMOUSLY.

MR. SNIEZEK: School Board member Good has an excused absence today. She's at training at the school board. I just wanted to mention that.

- **Status of Review of the Return of Allocated "Flexibility" or "Reserve" Units to the Municipal Tables, Subsequent to the Adoption of a Broward County Land Use Amendment**

And the last thing is a -- to answer a question that was brought up, I believe, at the June meeting about a situation where a city will allocate residential flexibility units to allow a development to move forward at the city level, and then they'll make the applicant come and do a County Land Use Plan amendment and when that's approved, then the city gets back their flex units. And the question was, I think, how many cities do that. We called up a number of (inaudible) cities and apparently Hallandale Beach and Sunrise are the cities that -- that we know of that have done that in the past.

As far as what to do about it, I guess it could be considered a loophole. We can prepare some language that will fix it, if you'd like. Otherwise, I think there's a larger issue. When we talked to some other cities, they said, boy, we didn't know that. So they're going to start doing it, too.

So, to me, there's a larger issue behind it, and I just wanted to share it with you. I think the cities are very interested in flex. The County Commission's very interested in flex. The Planning Council's interested in flex. Flexibility rules as they stand now, basically they've been in force for 33 years, since 1978, and a lot of cities are concerned that there's no -- they don't have any flex left. Some cities don't have any flex, like residential flexibility.

Flexibility, by the way, for the new members, is just a concept where the County Land Use Plan allows municipalities to rearrange some of their land uses without having to come to the County for approval, go to the Planning Council and County Commission. So that's what flex is.

Some cities have a lot of flex. So if -- if we're going to move forward on this, I think there's a larger issue, and I would suggest that maybe a way to proceed is actually to just use the Land Use Trafficways Committee or the Parks Committee, when they're done with their work, to just kind of have a discussion about flex, whether it should be reconstituted or something like that. I don't know what the answer is, but that would be my suggestion going forward.

CHAIR FISHER: Commissioner Mallozzi, then Commissioner London.

COMMISSIONER MALLOZZI: Actually, Henry, you took the words right out of my mouth. I think it's -- whether it's land use or flex acreage, this is something that does need to be looked at, because, again, just like you had said, there are some cities that don't even have the ability of -- of flex rules. So that's something that I do think we need to analyze all -- all aspects of it, and that would be something that I would be in (inaudible) Trafficways. I would have no problem if you brought that to us, so I'm for that.

CHAIR FISHER: Commissioner London.

COMMISSIONER LONDON: I agree with Commissioner Mallozzi and what Mr. Sniezek just said. I think -- again, there was an issue that I brought forward with flexibility, and I think it's something that, in 30 years, a lot of people are looking to evaluate it. And Hallandale's found a loophole in this.

Now Mr. Sniezek is calling everybody else, they're all interested in utilizing that. And as I think I might have mentioned, I'm not, one way or the other, I just think we need a better evaluation. We need to look at it and decide to move forward. Because the County's changed in 33 years, and the cities have changed, so we -- we need to have staff thoroughly look at this and evaluate this and come back with recommendations and what -- what's actually the moving target, and kind of evaluate this.

And, obviously, they've been working very hard for our parks and water bodies (inaudible). I think we're almost done. I think we're going to talk about that briefly. So either Trafficways or Parks (Inaudible) at this point in time.

CHAIR FISHER: So would it be Council's wishes include the Trafficways discussion on this, okay? Anybody else have any comment about that? Okay. Henry.

MR. SNIEZEK: Just along with Commissioner London, is it okay if we prioritize the discussion of the flex after we're done with the parks?

CHAIR FISHER: Of course.

MR. SNIEZEK: Because I think that is getting to a point where it's going to -- recommendations are going to come back to the Board, maybe in a month or so.

CHAIR FISHER: Okay. Any other reports you have?

MR. SNIEZEK: I mean, I could -- the Parks Task Force has been meeting, and I think we've narrowed down the issues as far as the review of criteria. I think there's going to be something about the County Land Use Plan's definitions of the -- you know, what public access is for water bodies. I think there's some about allowing more conservation areas to be covered in a limited sense. And removing private golf clubs from being able to be counted as a -- as a park.

We've only had three of those in the County. So I think we're meeting at the beginning of the next -- October meeting. I think at that point there might be actual (inaudible) underlined and language that could be, you know, come out of that committee.

CHAIR FISHER: Thanks -- thanks to Commissioner London and his -- his Chair for that. That committee's had some great -- great (inaudible). Great job. Commissioner?

COMMISSIONER LONDON: Yeah, I want, again, to compliment the committee. The dialog's been free flowing and information and I think staff has been able to take that information -- they've had very diligent notes and move along and give us good work.

And also hats off to the cities that have helped and responded so that we're dealing with all the information. And the cities have cooperated. I think Henry said maybe only one or two people have not responded, so the cities have cooperated, giving them the information they need to bring back to us.

CHAIR FISHER: Good job. Does that your report, Henry?

MR. SNIEZEK: Yes.

R-7 CORRESPONDENCE

CHAIR FISHER: All right. Any correspondence on R-7?

MR. SNIEZEK: No.

CHAIR FISHER: Okay. Very good.

PUBLIC HEARING

PH-1 THROUGH PH-4

CHAIR FISHER: We are moving now to our Public Hearing Agenda, Items 1 through 4. I think we have speakers signed up, two speakers, on PH-3, but they're in favor of the item, so --

MR. SNIEZEK: That's what I was -- that's what I was told.

CHAIR FISHER: So that's --

MR. HOBBY: I have a question on PH-3.

CHAIR FISHER: Okay. So Mr. Hobby wants to pull 3. PH-3. Anyone else want to pull an item?

UNIDENTIFIED SPEAKER: I'd like to pull 1.

CHAIR FISHER: PH-1, PH-3.

VICE CHAIR CASTRO: Move 2 and 4.

VICE MAYOR BRUCK: Second.

CHAIR FISHER: It's been moved and second.
Discussion? All in favor, say aye. Opposed? The motion does carry.

THE REPORTER: Could I get -- I beg your pardon.

CHAIR FISHER: Sorry. Made by -- made by --

COMMISSIONER CASTRO: Castro.

VICE MAYOR BRUCK: Second by Bruck.

THE REPORTER: Thank you. Thank you.

VOTE PASSES UNANIMOUSLY.

PH-1 AMENDMENT PC 11-3

CHAIR FISHER: PH-1.

MR. SNIEZEK: PH-1 is the second Public Hearing on Amendment PC11-3 in Coconut Creek. 26 acres propose a change from commercial to medium, 16 residential. At the first Public Hearings at the Planning Council in May and County Commission in June, it was recommended for approval unanimously. The State had an opportunity to comment; there were no objections issued. Planning Council staff's final recommendation is approval.

CHAIR FISHER: Okay. Mr. Bascombe, do you have a question on this?

MR. BASCOMBE: Actually, I had a comment, mostly from experience being on the Planning and Zoning Board for Lighthouse Point. The density of this property is -- is of a nature that makes it something that we -- we should be aware of.

And I say this because we, at the Planning and Zoning Board and also the City Commission, approved the project along Federal Highway which had a very high density. This doesn't fall into that density range, but I just -- it's more of a warning for elected officials, and also people just to be aware that projects like this are not in downtown. So when you get into a higher density, higher -- literally, higher projects, they do make an effect if they're not done --

planned correctly and designed correctly.

CHAIR FISHER: Good point. Good point. Mayor, yes.

MAYOR GUNZBURGER: I had some concerns about this. It's going from commercial to residential 16 with over 400 units going into this project. I assume the linkage fee that the commercial will pay would be \$1.36 per square foot.

I wanted to know how much affordable housing there is in the city. And part of this would be used to build affordable housing. This -- I really feel that I understand that with this market and the bubble having burst, there's a lot more affordable housing than there had been in the past, but I'd like to know how the affordable housing fund can be used in the city, whether it can be used to help people who are in foreclosure to stay in their homes, or people who need a down payment, first time home buyers. I need some explanation to feel comfortable with the linkage fee.

CHAIR FISHER: Mr. Mele.

MR. MELE: Dennis Mele, 200 East Broward Boulevard, on behalf of the applicant. Coconut Creek has had this land use intact for a number of years now. I think they were the only ones in the County to do it. And they used it for all of the programs you described, mortgage assistance for people that are having trouble that are already in their homes, first time home buyers assistance, and a number of other programs.

So I know they've been doing it. They've been collecting significant money. Of course, the collection of money has slowed down in the last couple of years, because we've had less construction.

I also wanted to mention in response to Mr. Bascombe's comment, we're in the zoning process with Coconut Creek right now, doing the PUD. (Inaudible)-- below 400. It will be three stories, the maximum height. And I know that the development that you're talking about in Lighthouse Point (inaudible) this is not right up on the street. It's back from the street, a significant setback.

I'll also mention that when we -- the only people that we've had any hearings on this project with were the Planning and Zoning Board in Coconut Creek, and they came out to speak in favor because they said they preferred to have residential next to them rather than commercial.

CHAIR FISHER: Any further questions? Mr. Fink.

MR. FINK: Dennis, when you say it's going to be below 400, do you have any idea how much it's going to (inaudible)?

MR. MELE: The plan that we presented is 396, but it's still going through the process. And one thing we know, it won't go up. We hope it doesn't go down too much. But it meets all of Coconut Creek's requirements. And, also, as you'll notice from the aerial photograph, there's conservation land surrounding this on all sides other than Hillsboro Boulevard, and the Wal-Mart is to our west.

So it was also felt that having a residential complex that has maintenance done by one entity for all the property is a plus and the interface with the conservation land. And these conservation areas, by the way, were purchased through the County bond program, and then the County has transferred them to the City of Coconut Creek for operation.

CHAIR FISHER: Further discussion? Is there a motion?

COMMISSIONER MALLOZZI: There's a question.

CHAIR FISHER: I'm sorry. Mr. Burton.

MR. BURTON: Well, I certainly applaud you for taking on some development now. I do have a question for you, though. With the comments from the Environmental Protection and Growth Management Department, they did mention that on the site there's approximately five known storage tank facilities. I'd like to know if you're going to be moving those and cleaning that up?

MR. MELE: Yes. Absolutely. We must do that. It's required by the County code.

CHAIR FISHER: Any further discussion on this item? It's been moved by Mr. Hobby and second by Mr. Reinstein. All in favor, say aye. Opposed? Motion is carried. Just for the record, I have to now slip out, so I'm going to pass the gavel to Vice Chair for Ph-3.

VOTE PASSES UNANIMOUSLY.

PH-3 AMENDMENT PCNRM 11-2

VICE CHAIR CASTRO: Henry, PH-3.

MR. SNIEZEK: Item PH-3 is the second Public Hearing for Item PCNRM 11-2. This would add a site known as the Bowles-Strachan House in West Park to the Historic Resources map.

And the historic -- Broward County Historic Commission unanimously recommended approval of this, in May. The City of West Park is in -- in support, as is the property owner.

VICE CHAIR CASTRO: Two speakers? Would the two speakers like to come forward?

MR. SNIEZEK: The speakers are William Moritz and Cynthia Strachan-Saunders.

VICE CHAIR CASTRO: Ms. Saunders.

MS. STRACHAN: Good morning. And it's Strachan. The "ch" is silent. (Inaudible.) I'd like to say thank you, first of all, for approving, thus far, the designation historic sites designation of property that my grandmother, Ethelyn Bowles, purchased back in 1941, and is the last of the four demonstration houses that were built back then. And it was designed a all black community back then, and it remained the majority.

And, again, thank you so -- so far, through this process. It's been just a couple years now we started it. And if I can invite you, when you want to take a break from the fast pace of 2011, come on by 4061 Southwest 19th Street and relax. Step through the door, step back in time. You'll get a tall glass of cool lemonade and lie back in the shade in the back underneath the (inaudible)tree. Thank you very much.

VICE CHAIR CASTRO: Thank you. (Inaudible.) Sir, you want to step forward? Don't be shy.

MR. MORITZ: Thank you. I just want to support this project.

VICE CHAIR CASTRO: State your name.

MR. MORITZ: My name's William Moritz. I live in West Park, on Ronald Road, if that's important. And the fact of the matter is I think we need a history. Good or bad, we must keep our history alive.

And that's why I'm here. I'm an activist in our city, and this is very important to me. And I'm going to present (inaudible).

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VICE CHAIR CASTRO: Mr. Reinstein.

MS. STRACHAN: Thank you today to the Broward County Historical Commission, also. (Inaudible.)

MR. REINSTEIN: Thank you for bringing this to us and for doing this. I was - - you know, we often get a lot of material here to read, and it's a bit dry. And this was not. This was quite interesting.

And I was very pleased to hear you invite us to -- to see the residence, because as I reading some of these letters that -- that you received in support of -- of the request to make it a historical landmark, it sounded like you opened your home to people and people were -- were visiting on a regular basis. And it's nice to hear that that is true. These aren't just people who you know who are sending these letters in, but these are people you opened your home to.

And, particularly, I did read Mr. Moritz's letter, and I checked out his website. And it had pictures and it had some information about -- about your home, so I think it's definitely worthy of becoming a landmark, and I hope to take you up on that lemonade.

MS. STRACHAN: Thank you so much. It's a bridge, it's bridging out, because I have not only elderly but young people who come by and look on the wall and see their ancestors. It's amazing how much participation there has been in the community. And they've been donating artifacts, and we have a washboard and cast iron pot, all kind of things.

And so if any of you hadn't had a chance to read Promises from the Palmetto Bush: The Genesis of Carver Ranches, that's a book that I -- I wrote, actually, from interviewing 43 other pioneer families that moved in Carver Ranches in the 40's. And it came to me and said write a book. And all these people just came forward with all their stories. So, Promises from the Palmetto Bush.

VICE CHAIR CASTRO: Thanks so much. Mr. Hobby?

MR. HOBBY: Yeah. Thank you. I pulled this not -- I'm in support of -- of this, but I had a technical question for Mr. Baber, who is the County's historic preservation guru.

MR. BABER: I'm Dave Baber, Historic Preservation Coordinator for Broward County.

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MR. HOBBY: The -- on the map, the historical sites map, which is a great thing, but I have a question. Is owner consent a factor in placing a site on that map?

MR. BABER: If you place it on, it's created as a LAPC (Phonetic), but it's on the map. I believe owner consent is not required, although certainly encouraged.

VICE CHAIR CASTRO: Correction, Henry?

MR. SNIEZEK: Owner consent is not technically required, no.

MR. HOBBY: Well, I guess technically required brings the question has a property that has been judged historic by the -- that meets the criteria been kept off of the map because of owner objections?

MR. SNIEZEK: Yes. During my time, I believe that's true. And sites have been put on when owners objected. So it's gone both ways. If the owner objects, it's not put on.

MR. HOBBY: So a house that's -- that's deemed historic, if the owner accepts, but not if he objects? Sometimes maybe?

MR. BABER: I guess it depends on the circumstances surrounding each one. As Henry said, some have been placed on the -- the map over the objections of the owner.

MR. HOBBY: Is there any criteria for that or is it just whoever screams the loudest?

MR. SNIEZEK: It's -- it's just the will of the Boards that make the final decision. We never -- we do not see recommendations to not put something on the map because the owner wants one way or the other.

MR. HOBBY: Okay.

MR. BABER: And I'd just like to say, this is a becoming our procedure, prerequisite for the County historically designating it, which is the ultimate goal of the owner in this case.

MR. HOBBY: Right. I applaud the owner, and I think this is a great thing. I just wonder the value of a map that shows historic sites in the County if there are historic sites that aren't on it only because the owner doesn't want it on there because of some reason. There's no -- let me just clarify. There's no

restrictions placed on the owner's use or modification of their site –

COMMISSIONER MALLOZZI: Yes, there is.

MR. HOBBY: Wait a second. Let me ask him. By being on the LAPC -- I mean on the -- as a historic site map?

MR. BABER: For historic structures, that's correct. For natural resources, there are restrictions. However, if they take the next step of historic designation, there are restrictions, at that point.

MR. HOBBY: Right.

MR. BABER: That's my understanding of the rules.

VICE CHAIR CASTRO: You're correct. Otherwise the property owner would have a property rights case against whoever's designating them a historical home; clearly a taking. And it has to have historical designation before it's done and their rights are restricted with redevelopment.

MR. HOBBY: Right. Okay. Well, I just -- yeah.

MR. SNIEZEK: Just -- just -- I don't want to give you the wrong impression. I'm just going off the top of my head. It's been pretty rare, because we've had -- sometimes over the years we've had whole batches of historic sites being proposed to be put on, and I can only think of a handful of sites that had an issue with the owner or the Planning Council or the County Commission had to make a decision. So it's been fairly rare.

MR. HOBBY: Yeah. Well, I -- my point has been made.

VICE CHAIR CASTRO: Vice Mayor DuBose and then Commissioner Mack.

COMMISSIONER MACK: Thank you.

VICE MAYOR DUBOSE: I just wanted to make a quick comment and say thank you for doing this. I think it is very important to preserve the history. And also to let you know that I am familiar with the history there in West Park, Carver Ranches, as my wife passionately reminds me, because she grew up there. So I'm going to take you up on that invitation and look forward to that glass of lemonade. Thank you.

VICE CHAIR CASTRO: Commissioner Mack, do you mind if I call on another speaker? Since it's in your city, I'd like to let you finish out, if you don't mind.

COMMISSIONER MACK: Sure.

VICE CHAIR CASTRO: Mr. Bascombe.

MR. BASCOMBE: I'd just like to say publicly thank you very much for doing this. Because sometimes we forget about certain areas. West Park is one of those areas in Broward County that gets -- doesn't get enough notoriety, in my opinion.

I also want to say this. Doing what we're doing now, long term, a hundred years from now, let's hope we do more of this, because it will allow a lot more of our history, which is such a short history, truly, to be -- to be known by people in the future.

VICE CHAIR CASTRO: Mr. Burton.

MR. BURTON: Yeah, I also applaud you for doing this. I have a couple of questions, though, with regard to the first thing that was answered, and that was with regard to use restrictions.

But some other questions I have, but its regards to are there any requirements of the property owner, if it is considered historic, to maintain the property in an historic fashion or keep it historic? In other words, can there be redevelopment or -- I noticed even reading this that initially they didn't have plumbing or electric, and now I assume those things are in there. But in the future, is there anything to keep them from continuing to modernize, or does it have to at that point stay somewhat historical?

MR. SNIEZEK: The item before you which is putting it on the map is purely informational. There's no other restrictions or requirements associated with it. The only thing that could ever happen was if a land use plan amendment or something that came in that was adjacent to it or (inaudible.) Obviously that would be something that would be evaluated. But there's no other requirements associated with it. It's purely informational.

MR. BURTON: And are there any, you know, property tax benefits or other benefits of any sort to the property owner for having this historic designation?

MR. SNIEZEK: There's nothing that I'm aware of. I mean, I guess, maybe.

VICE CHAIR CASTRO: Mr. Baber is coming back. Hold on a second.

MR. BABER: Hi. Dave Baber, again. There is no tax benefits for being placed on a land use map. However, if the owner -- as the owner's planning

to do, once it's historically designated, there is a tax exemption program to exempt the value of improvements that they make from County's ad valorem taxes, if they want to pursue that.

VICE CHAIR CASTRO: And I'm sorry, (inaudible) historical designation, to his first question, that designation, once you obtain that, would be the next step if they want to go through that. That would, to his point, start restricting what improvements or non-improvements they can do to the property. The point is to keep it in an historical point of view. And that -- that group would then oversee and monitor that.

MR. BABER: That's correct. The Historical Commission would have oversight as far as exterior improvements, specifically, not interior improvements.

And so it's kind of a balance of those kinds of obligations, plus benefits. There's flexibility in the building code that they receive from having it designated, as well as I mentioned the tax exemption and some other tax benefits.

MR. BURTON: Thank you. I, too, look forward to that glass of lemonade.

VICE CHAIR CASTRO: Mr. Hobby has a follow-up.

MR. HOBBY: Not a follow-up, just a clarification. This has gone through the County because West Park doesn't have a historic preservation ordinance; is that correct?

MR. BABER: That's correct. The County's ordinance says that we can designate properties in communities that don't have an ordinance of at least equal strength.

MR. HOBBY: So most cities in -- would you say most cities in Broward have a historic preservation --

MR. BABER: About eight, I guess. Most of the coastal communities. We're working -- Oakland Park is working on developing one now, and (inaudible).

MR. HOBBY: Okay. Thank you.

VICE CHAIR CASTRO: Commissioner Mack.

COMMISSIONER MACK: Yes. I have two -- a two part question. One is, would I sit out on the vote for this; that would be one. And the other one is I

grew up in -- in West Park. I'm a product of the area. And this is one of the oldest houses there. I can recall there only being about maybe six houses, when I was born. Everything else was rocky and dark. So I applaud Cynthia Strachan-Saunders in -- in her efforts of keeping her parents' dream alive. I'm also asking that the improvements that they would ask to be made would be those to wear-and-tear, dilapidation, you know. Once you deem a home to be your place of -- what's the word --historical, yeah. Once you deem a place (inaudible) historical, you want to keep that face, because I'm reminded of the historic house in Fort Lauderdale, and as a school teacher, we take the children to that house every year. That's a field trip to them.

So like the guru said, there's only about eight cities that have even thought of this idea. And I applaud her for putting West Park on the map. And again, I'd like to know in voting, if I'm going to sit out on the vote, or I'm not going to be included.

MR. MAURODIS: You may -- but you're required to vote.

VICE CHAIR CASTRO: Unless you have a personal vested interest, you're required to vote, as Mr. Marodis says. You do not have to recuse yourself. Today the vote's just putting it on the map. So if it goes to the next step of historical designation by a different body that's where all that other stuff we're talking about comes in to play.

COMMISSIONER MACK: Oh, okay.

VICE CHAIR CASTRO: Okay? Can I have a motion?

COMMISSIONER MALLOZZI: Move it.

VICE MAYOR DUBOSE: Second.

VICE CHAIR CASTRO: Second. Who's making the motion?

COMMISSIONER MALLOZZI: Mallozzi and DuBose.

VICE CHAIR CASTRO: Okay. All in favor? Anybody opposed?

VOTE PASSES UNANIMOUSLY.

OTHER BUSINESS

VICE CHAIR CASTRO: Seeing none. Anybody else have anything else for today, any business? Anything to discuss?

ADJOURMENT

Seeing none, we're adjourned.

(The meeting concluded at 11:05 a.m.)