

MINUTES OF THE MEETING OF THE
PINELLAS PLANNING COUNCIL
January 20, 2010

The Pinellas Planning Council (PPC) met in regular session in the County Commission Assembly Room, Pinellas County Courthouse, 315 Court Street, Clearwater, Florida, at 1:01 P.M. with the following members present:

Patricia Gerard, Chairman, City of Largo Mayor
John Doran, Vice-Chairman, City of Clearwater Councilmember
John Morroni, Treasurer, County Commissioner
Jim Ronecker, Secretary, City of Oldsmar Mayor
Beverley Billiris, City of Tarpon Springs Mayor
Sandra L. Bradbury, City of Pinellas Park Councilmember
David Carson, City of Dunedin Commissioner
Jim Kennedy, City of St. Petersburg Councilmember
Jerry Knight, Town of North Redington Beach Vice-Mayor
Linda S. Lerner, School Board Member
Patricia J. Shontz, City of Madeira Beach Mayor

Not Present:

Nina Bandoni, City of Safety Harbor Vice-Mayor
Stephanie Oddo, Town of Belleair Commissioner

Also Present:

David P. Healey, Executive Director, PPC
Linda Fisher, PPC Staff
Chris Mettler, PPC Staff
Carolyn Shoemaker, PPC Staff
Jewel White Cole, Managing Assistant County Attorney
Other interested individuals
Tammy L. Burgess, Deputy Clerk

AGENDA

- I. CALL TO ORDER
 - A. Invocation and Pledge
 - B. Identification of Members Present and Recognition of New Officers

- II. CONSENT AGENDA
 - A. Minutes of November 18, 2009 and December 16, 2009 Council Meetings
 - B. Financial Statement for December 2009
 - C. Countywide Planning Authority (CPA) Actions – January 2010
 - D. Annexation Report – December 2009
 - E. Preliminary February 2010 Agenda
 - F. Correspondence

- III. PUBLIC HEARING – To begin at 1:00 P.M. or as soon thereafter as agenda permits
 - A. Public Hearing Format Announcement and Oath
 - B. Amendments to the Countywide Future Land Use Plan
 - Group 1: Subthreshold Amendments – None
 - Group 2: Regular Amendments – None
 - C. Amendment of the Countywide Rules Re: Transfer of Development Rights (TDRs) and Density/Intensity Averaging

- IV. REPORTS/OTHER ACTION
 - A. Annual Report – Authorization to Distribute
 - B. Determinations of Consistency – Clearwater, Madeira Beach, Pinellas Park, and Redington Beach
 - C. Warranty Deed for Special Density Transfers – City of Clearwater

- V. EXECUTIVE DIRECTOR ITEMS
 - A. Annual Audit F.Y. 2008/09 – Acceptance and Distribution
 - B. Interlocal Service Area Boundary Agreement (ISBA) Process Update
 - C. Verbal Reports

- VI. OTHER COUNCIL BUSINESS
 - A. Chairman/Member Items

- VII. ADJOURNMENT

CALL TO ORDER

Chairman Gerard called the meeting to order at 1:01 P.M.

INVOCATION AND PLEDGE

The Invocation was given by Mayor Billiris, following which she led the Pledge of Allegiance to the Flag.

IDENTIFICATION OF MEMBERS PRESENT AND RECOGNITION OF NEW OFFICERS

At the request of Chairman Gerard, a roll call was taken in which the members introduced themselves and the 2010 officers were identified.

CONSENT AGENDA – APPROVED

Chairman Gerard presented the Consent Agenda items, as follows:

- A. Minutes of November 18, 2009 and December 16, 2009 Council Meetings
- B. Financial Statement for December 2009
- C. Countywide Planning Authority (CPA) Actions – January 2010
- D. Annexation Report – December 2009
- E. Preliminary February 2010 Agenda
- F. Correspondence

Thereupon, Mayor Billiris moved, seconded by Councilmember Bradbury and carried, that the Consent Agenda items be approved (Vote 11 – 0).

Referring to Item C, Mr. Healey noted that the actions taken by the Board of County Commissioners (BCC) sitting as the CPA are identified in the backup materials provided.

PUBLIC HEARINGS

- A. Public Hearing Format Announcement and Oath

Upon request by the Chairman, all persons planning to give testimony were duly sworn by the Deputy Clerk.

- B. Amendments to the Countywide Future Land Use Plan

GROUP 1: SUBTHRESHOLD AMENDMENTS – None

GROUP 2: REGULAR AMENDMENTS - None

C. Amendment of the Countywide Rules

Transfer of Development Rights (TDRs) and Density/Intensity Averaging – Approved Resolution No. 10-1 Recommending Approval of Amendments and Transmittal to the Countywide Planning Authority

Pursuant to legal notice published in the January 2, 2010 issue of the *St. Petersburg Times* as evidenced by affidavit of publication filed with the Clerk, public hearing was held on a proposed ordinance to amend the “Rules Concerning the Administration of the Future Land Use Plan” (Countywide Rules).

Mr. Healey presented a brief overview of the discussion and Council’s direction at the December 2009 PPC meeting and related that he has drafted a proposed ordinance for consideration and adoption; whereupon, he indicated that subsequent to the December PPC meeting, two changes were made to the ordinance based on the City of St. Petersburg’s concerns; that the changes are enumerated in the agenda memorandum; and that staff recommends the changes be approved as part of Council’s action.

Councilmember Kennedy expressed his appreciation for the cooperation in resolving the majority of the City’s concerns and stated that the St. Petersburg City Council adopted two resolutions relating to this matter; whereupon, he referenced City Resolution 2010-21, a copy of which has been filed and made a part of the record, and cited the additional language the City has requested be included in paragraph 4.2.3.7 of the proposed ordinance.

Mr. Healey indicated that Attorney Cole reviewed and made some minor modifications to the City’s suggested language; and that staff has no objection to adding the modified language to the proposed ordinance. Discussion ensued wherein Attorney Cole referred to a draft of the suggested modified language, a copy of which has been filed and made a part of the record, and indicated that the intent of the City’s proposed language was not changed; and that she restructured the paragraph for the ultimate codification of the Countywide Rules.

During discussion, Attorney Cole responded to comments and queries by Councilmember Kennedy and indicated that the term “development order” encompasses all of the processes; and that it is her intent that the phrase “appropriate development order” be

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interpreted to mean any required development approval; whereupon, Councilmember Kennedy indicated that he has no objection to the use of Attorney Cole's suggested modified language.

Referring to City of St. Petersburg Resolution No. 2010-20, a copy of which has been filed and made a part of the record, Councilmember Kennedy stated that the resolution acknowledges the cooperation of the PPC staff in modifying the proposed amendments regarding transfers of development rights and density averaging relating to Comprehensive Plan categories governed by a Special Area Plan.

Councilmember Kennedy stated that the City's only remaining area of contention is the proposed five-acre limit on density/intensity averaging on contiguous properties in different Comprehensive Plan categories; that the City planners are concerned the limit will restrict the flexibility to create a master, unified site and the clustering of developments and will work against an overall design that maximizes mixed uses; and that there are concerns regarding the impact to property owners and the development community, noting that the proposed limit has not been presented to the development community and will come as a surprise.

Councilmember Kennedy pointed out that the Countywide Rules have never had an acreage limitation for development projects that used averaging and questioned the need and the intent behind imposing a limit now; whereupon, he outlined the local processes in place and enumerated the City's proposed alternatives to the five-acre limit, as follows: (1) eliminate the five-acre limit; (2) increase the limit to 20 acres; (3) include a provision allowing the area to exceed the five-acre limit if the size and density of the receiving Plan category does not result in an increase that exceeds 33 percent of what it could allow; or (4) allow an exception for projects greater than five acres that would require a supermajority vote to approve.

Discussion ensued and in response to comments and queries by Vice-Mayor Knight and Councilmember Bradbury, Mr. Healey clarified that the five-acre limit only applies to density averaging; explained that the suggested size limitation is based on prior issues where there were no limits on size or the amount of density increase; and pointed out that absent any size limitation and limit on the amount of density increase, there would be no reason to ever transfer development rights as the maximum benefit would be achieved by density averaging; whereupon, he strongly recommended that the Council not consider the City's alternative requiring a supermajority vote by the Council.

In response to the Chairman's call for opponents to the request, City of St. Petersburg Planning and Economic Development Department Manager Rick MacAulay appeared and expressed his concerns regarding the proposed five-acre limit and in response to queries by

the members, described the Tortuga Pointe project in St. Petersburg and the benefits of density averaging, reiterated the need to reach out to the development community if a five-acre limit is going to be imposed, and indicated that five acres is not a large project site for the City; and that the limit may negatively impact future transit development; whereupon, he stated that the City would favor a 20-acre limit over a five-acre limit, but would prefer not to have any acreage limit on density averaging. In response to query by Chairman Gerard, Mr. Healey clarified that parcels do not have to be contiguous to transfer development rights.

At Commissioner Morroni's request, Pinellas County General Planning Division Manager Gordon R. Beardslee related that the County uses both density averaging and transfers of development rights, noting that density averaging has been used on large and small projects throughout the County; and that the County's land development regulation staff has indicated that the five-acre limit will not be a problem for most projects.

During discussion and in response to comments and queries by Chairman Gerard and Commissioner Morroni, Messrs. Beardslee and Healey discussed transit development and indicated that the station area plans will likely be governed by Special Area Plans; that the proposed amendment has been adjusted to accommodate any density averaging or transfers of development rights necessary with each such special area plan; and that the station area plans will not be governed by the general standards; whereupon, Mr. Beardslee indicated that the process for handling the areas around the stations is still being worked through; and that the County does more density averaging than transfers of development rights, noting that the application of transfers of development rights resembles density averaging more than actual transfers.

Responding to queries by School Board Member Lerner, Mr. Healey related that raising the threshold from five to 20 acres is a wholesale change to the intent and would potentially result in significant unintended consequences; and that transit and station area plans will have to be addressed through the Rule-making process once the plan is in place; whereupon, he stated that he does not recommend increasing the threshold or further delaying the amendment.

In response to comments and queries by Chairman Gerard, Mr. Healey explained that the Land Use Plan differentiates between permitted densities; that if there is no limit to how much can be moved around, it may result in a density in an area that has no reasonable relationship to what the Plan called for or to what the surrounding citizens and neighborhoods might expect could occur on the property; and that if density is allowed to be moved around in an uncontrolled manner, then the Land Use Plan is essentially meaningless; whereupon, he pointed

out that the limit acknowledges what is really being done on the property and provides a threshold at which point a Plan amendment is necessary.

Mr. Healey pointed out that Mr. MacAulay was not completely forthcoming in his responses to the members' questions; and that it was not the Countywide Rules that prevented the Tortuga Pointe project from transferring development rights, but the fact that the City does not have a general transfer of development rights provision, noting that the Countywide Rules would have allowed up to a 25 percent increase in density, not two-and-half-times what is permitted, as the City allowed. He indicated that his review of the City Code and City's provisions for density averaging revealed no existing provision that would permit the density that was allowed to occur on the project; and explained that the City essentially moved density from an area within a Special Area Plan to an area outside of the Special Area Plan, but should have requested a map amendment.

Mr. Healey stated that he takes exception to the City's attempt to present the Planning Council's proposed regulations as an obstacle to development when the City itself does not currently have the provisions in place to allow the development that has occurred, or is proposed to occur; whereupon, referring to the City's request to remove the five-acre limitation, Mr. Healey stated that should the Council decide to remove the limitation, then he would request that the Council send him back to square one; and pointed out that doing what the City is requesting would limit the flexibility created by density averaging for smaller projects.

During discussion and in response to comments and queries by Vice-Chairman Doran, Mr. Healey confirmed that transit station area plans will be stand alone plans based on their merit, their location, and their function and will be subject to public input; and that consideration will be given to all of the factors to determine if the plans should be allowed; whereupon, Vice-Chairman Doran pointed out that the issue should not be on the impact to the developers, but the impact to the community as a whole.

Councilmember Kennedy moved that the proposed resolution be approved, replacing the five-acre limit with a 20-acre limit and including Attorney Cole's modified language; whereupon, Chairman Gerard indicated that the motion died for a lack of a second.

Thereupon, Mayor Billiris moved, seconded by Mayor Shontz, that the proposed resolution be approved as presented by staff, with the inclusion of Attorney Cole's modified language, and transmitted to the CPA for adoption. Upon call for the vote, the motion carried by a vote of 10 to 1, with Councilmember Kennedy casting the dissenting vote.

REPORTS AND OTHER ACTION

A. Annual Report – Final Draft – Authorized Distribution

Ms. Fisher presented the final draft Annual Report for Fiscal year 2008/2009 and indicated that a few changes have been made since presentation of the draft report in December; whereupon, she noted that the End of the Year Financial Statement on Page 7 has been updated with information provided by the auditor.

Mayor Billiris moved, seconded by Councilmember Bradbury and carried, that the Annual Report be approved; and that authorization be granted for its distribution (Vote 11 – 0).

B. Determinations of Consistency – Clearwater, Madeira Beach, Pinellas Park, and Redington Beach – Received/Discussed/Recommended Approval and Transmittal to the Countywide Planning Authority for Adoption of Resolutions

Mr. Mettler indicated that the local governments of Clearwater, Madeira Beach, Pinellas Park, and Redington Beach have adopted significant portions of the amendments to their Comprehensive Plans and Land Development Regulations identified in the Consistency Report; that it is appropriate to process Updated Determinations of Consistency for the four local governments by adopting the four resolutions; and that with the exception of Clearwater, there are minor amendments of which they are aware that must be completed within one year, noting that Clearwater has resolved all of the outstanding contingencies and is consistent with the Countywide Rules; whereupon, he recommended that the Council approve the transmittal of the four Updated Determinations of Consistency to the CPA with the recommendation that the CPA adopt the resolutions.

Mayor Billiris moved, seconded by Commissioner Morroni and carried, that the proposed resolutions be approved and transmitted to the CPA for adoption (Vote 11 – 0).

C. Warranty Deed for Special Density Transfer – City of Clearwater – Authorized Transmittal to the Countywide Planning Authority with Recommendation of Approval

Mr. Healey indicated that the Countywide Rules were recently amended to require that local governments provide for a recording mechanism, in a form approved by the Countywide Planning Authority (CPA), for the transfer of development rights; whereupon, he called attention to the *Special Density Transfer Warranty Deed* form attached to the agenda

memorandum, submitted by the City of Clearwater, and recommended that the form be transmitted to the CPA for its approval.

Mayor Billiris moved, seconded by Vice-Mayor Knight and carried, that the form be recommended to the CPA for its approval (Vote 11 – 0).

EXECUTIVE DIRECTOR ITEMS

A. Annual Audit, Fiscal Year 2008-2009 – Received/Accepted/Authorized Executive Director to File with Auditor General and Transmit Copy to the BCC

Mr. Healey referred to the Annual Audit Report prepared by LarsonAllen LLP, a copy of which has been filed and made a part of the record, and introduced G. J. “Gil” Hernandez, CPA, who indicated that the report presents a clean opinion on the financial statements and auditing standards. With respect to the finding of inadequate internal control, Mr. Hernandez noted that the Rules of the Auditor General require the disclosure; and that future findings of inadequate internal control are likely until the Council is in a position to change the composition of its staff; whereupon, Mr. Healey pointed out that the audit report identifies the need to tighten the internal control structure and suggests either engaging professional accounting help from the outside or having him personally review the bank reconciliation statements and journal entries each month and sign off on them; and indicated that the office manager/bookkeeper currently performs the reviews; and that he is comfortable with the process as it is now and as it is proposed to be adjusted.

Mr. Healey pointed out that the revenues exceeded the budgeted expenditures by \$40,440; that a three-year budget allocation of the fund balance was done; that \$381,840 of the Council’s fund balance funded this year’s budget; and that the projected fund and cash reserve balances as of September 30, 2010 should be \$749,000, which will be allocated over the next two years at \$349,000 per year, noting that the allocation is less than the amount allocated for the current year.

Mr. Healey related that there is the potential for further reduction in the ad valorem values for next fiscal year of up to ten percent, which represents a deficit of approximately \$76,000 in projected ad valorem proceeds going into next year; whereupon, he indicated that the Council is where it projected it would be and where it needs to be to fund itself over the next two years; and noted that several budget-saving measures have been instituted that

will hopefully yield similar revenue excess compared to expenditures as in the current year's audit.

Councilmember Bradbury moved, seconded by Mayor Billiris and carried, that the Comprehensive Annual Financial Report for the year ended September 30, 2009 be approved; and that the Executive Director be authorized to transmit the report to the Audit General and the BCC (Vote 11 – 0).

B. Interlocal Service Area Boundary Agreement Process Update – Received/Discussed

Mr. Healey indicated that the process has been concluded at the County level; and that there may be a need to rescind the independent resolutions passed in some of the communities; and requested that the members speak with their respective city attorneys to determine if there is a need to address the matter further; whereupon, he pointed out that no action is required by the Council; and that the Board of County Commissioners approved the resolution rescinding the initiating resolution at its January 19, 2010 meeting.

In response to queries by School Board Member Lerner, Mr. Healey related that the cities and County have a better understanding of each others positions; that there is potential for communities to negotiate a more limited agreement separately with the County; and that absent any progress, the state law and settlement agreement from the last Charter Review process remain in effect. Commissioner Morroni indicated that there is hope for some agreement; and that the communication is better than the silence experienced in the past several years; whereupon, Chairman Gerard and Mayor Billiris expressed interest in continuing discussions with their respective cities.

C. Verbal Reports

Mr. Healey provided an update on the cost-savings associated with earlier submissions of public hearing items for advertisement, noting that the PAC has agreed to a voluntary 33-day timeframe, as opposed to the formal 28-day timeframe, for submission of their amendments to the PPC for advertisement.

OTHER COUNCIL BUSINESS

A. Chairman/Member Items

Mr. Healey provided an update on his meetings with the County Commissioners and the County Administrator and indicated that the County Administrator has expressed interest in participating in the Executive Committee's future discussions; and that he will be working with the County Administrator's Office over the next month and will bring back additional information at the February PPC meeting; whereupon, he reported that Representative Kriseman and St. Petersburg Councilman Jeff Danner have requested to meet with him, the County Administrator, and the MPO Executive Director in February.

Chairman Gerard requested that the Council empower the new Executive Committee to continue discussions regarding the structure of planning activities for the County, whereupon, Vice-Mayor Knight moved, seconded by Commissioner Morroni and carried, that the new Executive Committee continue discussions and represent the Council on issues that have already been identified as important to the process (Vote 11 – 0).

Referring to the Charter Review Commission (CRC), Mayor Billiris expressed concerns regarding its formation and the potential for the elimination of the PPC to be put on its agenda. She suggested that the members attend as many of the CRC meetings as possible to provide input; and that Mr. Healey be authorized to attend the meetings and speak on behalf of the PPC in the event the members are unable to do so, and no objections were noted; whereupon, in response to query by Commissioner Morroni, Mr. Healey indicated that, to his knowledge, the PPC was not discussed at the first two CRC meetings; that the next meeting is scheduled for Monday, January 25, 2010; and that he plans to attend.

Following brief discussion and in response to query by Mayor Ronecker, Mayor Billiris, with input by Mr. Healey, confirmed that the PPC was created by a Special Act subject to referendum; and that the CRC cannot arbitrarily dissolve the PPC, but that the Council's millage could be reduced or eliminated, as evidenced by actions attempted last year, thereby causing the PPC to cease to exist; whereupon, Chairman Gerard requested that Mr. Healey keep the members informed of upcoming CRC meeting dates; and that he share information from the meetings with the members.

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ADJOURNMENT

There being no further business, the meeting was adjourned at 2:33 P.M.

Chairman