

Agenda Topic 4.a
September 19, 2005

RESOLUTION NO. _____

WHEREAS, with the active cooperation and support of the municipalities, and pursuant to statutory authority, the Pinellas County Charter has been amended to provide for an exclusive method of voluntary annexation, by ordinance of the Board of County Commissioners and further provides for the delineation of exclusive annexation boundaries; and

WHEREAS, with the active cooperation and support of the municipalities, the Pinellas County Board of County Commissioners adopted an ordinance to implement that charter based annexation authority; and

WHEREAS, with over four years of experience in administration of the ordinance interjurisdictional disputes that have had an impact on economic development have been reduced. However, it has been recognized by the Board of County Commissioners and the Annexation Task Force of the Pinellas Assembly that the statutory limitation of charter authority to only voluntary annexation makes the exclusive annexation boundaries illusory and of little practical planning significance; and

WHEREAS, the first step in eliminating this barrier to real and practically functional annexation controls be to expand the scope of charter/special act/general law authority so that they were empowered to governed referendum annexation and contraction; and

WHEREAS, one way to accomplish this would be to, in the following manner, move and rewrite Section 171.044(5) Fla. Stat. of the general law to eliminate its applicability to only voluntary annexation:

1. Eliminate Section 171.044(5) Fla. Stat; and
2. move the above-referenced subsection (5) from the section governing voluntary annexation to the general preemption section with slight amendments to read as follows:

171.021Preemption; effect on special laws..

(5) The methods of annexation and contraction provided by this chapter shall be supplemental to any other procedure provided by general or special law, except that this chapter shall not apply to municipalities in counties with charters which provide for an exclusive method of municipal annexation to be implemented by ordinance of the Board of County Commissioners.

WHEREAS, a second way authorized by Article VIII Section 2(c) of the Florida Constitution would be to adopt a special act governing Pinellas County that provides for the same charter authority to read as follows:

The methods of annexation and contraction provided by Chapter 171 Florida Statutes for all forms of annexation and contraction shall be supplemental to any other procedure provided for in the Pinellas County

Charter and subsequently implemented by Pinellas County ordinance. In the event of a conflict between the County Ordinance adopted to implement this authority and the Provisions of Chapter 171 Florida Statutes, the Pinellas County Ordinance shall govern.

WHEREAS, the methods of annexation and contraction provided by this Chapter 171 Fla. Stat. shall be supplemental to any other procedure provided for in the Pinellas County Charter and implemented by Pinellas County Ordinance.

WHEREAS, the Pinellas County Charter Review Commission was convened pursuant to the Pinellas County Charter and has reviewed the countywide annexation issues and the report of the Annexation Task Force of the Pinellas Assembly and has determined that legislative action to support the continued expansion of home rule control of annexation issues is desirable.

NOW THEREFORE, BE IT RESOLVED that the Pinellas County Charter Review Commission agrees with the recommendations of the Annexation Task Force of the Pinellas Assembly and joins them in urging the legislative delegation to eliminate the remaining barrier to effective home rule over inherently local annexation issues by fully implementing County charter based annexation authority.

BE IT FURTHER RESOLVED that this Resolution be included in the final report to the citizens of the Pinellas County Charter Review Commission and that this Resolution be forwarded to the Pinellas County Legislative Delegation for its consideration in the 2006 legislative session.

This Resolution shall become effective upon its adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner _____, and upon roll call the vote was [unanimous] or:

AYES _____

NAYS _____

Absent and not Voting _____

1 CHAPTER 2006-____
2

3 Senate bill NO. _____
4

5 An act relating to Pinellas County; providing authority to the board of county
6 commissioners of Pinellas County to amend the Pinellas County charter to
7 provide for charter-based annexation and contraction procedures to which general
8 law will be supplemental; providing severability; providing an effective date
9

10 Be it Enacted by the Legislature of the State of Florida and pursuant to Article VIII, Section 2(c)
11 of the Florida Constitution:
12

13 Section 1. The methods of annexation and contraction provided by Chapter 171 Florida
14 Statutes for all forms of annexation and contraction shall be supplemental to any other procedure
15 provided for, now or in the future, in the Pinellas County Charter and subsequently implemented
16 by Pinellas County ordinance. In the event of a conflict between the County Ordinance adopted
17 to implement this authority and the Provisions of Chapter 171 Florida Statutes, the Pinellas
18 County Ordinance shall govern.
19

20 Section 2. If any provision of this act or its application to any person or circumstance is held
21 invalid, the invalidity does not affect other provisions or application, and to this end the
22 provisions of this act are declared severable.
23

24 Section 3. This act shall take effect upon becoming law.
25

26 Approved by the Governor _____
27 Filed in Office of Secretary of State _____
28

1 CHAPTER 2006-____
2

3 Senate bill NO. _____
4

5 An act relating to annexation regulation authority; repealing Section 171.044(4)
6 Florida Statutes; amending Section 171.021 Florida Statutes by adding a new
7 subsection 5 to provide that Chapter 171 Florida Statutes is supplemental to any
8 annexation provisions enacted by general and special law and to exempt charter-
9 based annexation methods from the provisions of Chapter 171, Florida Statutes;
10 providing severability; providing an effective date
11

12 Be it Enacted by the Legislature of the State of Florida:
13

14 Section 1. Section 171.044(4) Florida Statutes is hereby repealed and subsections (5)
15 and (6) are renumbered as subsections (4) and (5), respectively.
16

17 Section 2. Section 171.021 Florida Statutes is hereby amended to create a new subsection (5)
18 to read as follows:
19

20 171.021 Preemption; effect on special laws..
21

22 (5) The methods of annexation and contraction provided by this Chapter shall
23 be supplemental to any other procedure provided by general or special
24 law, except that this chapter shall not apply to municipalities in counties
25 with charters, which provide for an exclusive method of municipal
26 annexation to be implemented by ordinance of the Board of County
27 Commissioners.
28

29 Section 3. If any provision of this act or its application to any person or circumstance is held
30 invalid, the invalidity does not affect other provisions or application, and to this end the
31 provisions of this act are declared severable.
32

33 Section 4. This act shall take effect upon becoming law.
34

35 Approved by the Governor _____

36 Filed in Office of Secretary of State _____
37

DRAFT

A bill to be entitled

An Act relating to exemption from annexation; creating the "Community Preservation Act"; amending s. 125.01 F.S. to authorize counties to exempt portions of their unincorporated areas from annexation; amending s. 171.021 to add the preservation of communities to the purposes of The Municipal Annexation Act; amending s. 171.031 to add definition of "preserved community"; amending s. 171.0413 to add "non-exempt" to conditions for annexation.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Community Preservation Act."

Section 2. Section 125.01(1), Florida Statutes, is amended by adding a new subsection (dd) which reads:

125.01(1)(dd) Establish, and thereafter, alter or abolish, by ordinance, preserved community areas in the unincorporated portions of the county which either consist of identifiable communities which have expressed an interest in preserving their unincorporated character. These preserved community areas shall not be subject to annexation by any municipality under any procedure otherwise permitted by law.

Section 3. Section 171.021, Florida Statutes, is amended by adding a new subsection (5) which reads:

171.021(5) Ensure that communities which wish to preserve their unincorporated character and significant county facilities are protected from annexation.

Section 4. Section 171.031, Florida Statutes, is amended by adding a new subsection (14) which reads:

171.031(14) "Preserved Community" shall mean any portion of the unincorporated property of a county which has been designated by the county as a preserved community exempt from municipal annexation.

Section 5. Section 171.0413, Florida Statutes, is amended to read:

171.0413 Annexation procedures. – Any municipality may annex contiguous, compact, unincorporated territory, which has not been designated a "preserved community" as defined in this chapter, in the following manner...

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WHEREAS, with the active cooperation and support of the municipalities, the Pinellas County Board of County Commissioners adopted an ordinance to implement that charter based annexation authority; and

WHEREAS, with over four years of experience in administration of the ordinance, jurisdictional disputes that have had an impact on economic development have been reduced. However, it has been recognized by the Board of County Commissioners that the definitions for "contiguity" and "compact" provided in the county ordinance which mirror those in the Florida Statutes serve, on occasion, not only to perpetuate haphazard, ad hoc, and undisciplined decision-making but continue to foster inefficient municipal and county jurisdictional boundaries; and

WHEREAS, inefficient municipal and county jurisdictional boundaries result in waste in the delivery of services which translates into higher taxes; and

WHEREAS, efficient municipal and county jurisdictional boundaries results in efficiencies that should translate into lower taxes; and

WHEREAS, definitions have been proposed by the Board of County Commissioners but without counter proposals, were totally rejected by the Pinellas Planning Council; and

WHEREAS, after rejection by the Pinellas Planning Council the Board of County Commissioners on January 11, 2005 adopted those proposals as guidelines for review in their "Approved Policy Guidelines for Evaluating Proposed Voluntary Annexations." Those guidelines are attached as Exhibit "A" to this Resolution; and

WHEREAS, one of the bases for rejection of the definitions was that in certain unique circumstances and boundary patterns a proposed annexation would not meet the strict letter of the definitions but would not exacerbate the efficiencies in delivery of services and would be a logical and desirable extension of municipal boundaries; and

WHEREAS, not unlike all forms of regulation of land use, it is recognized that trying to govern the unlimited combination of patterns of possible municipal annexations with a single definition, strictly applied and without a basis for variance may lead to unduly burdensome results; and

WHEREAS, the definitions proposed by the Board of County Commissioners serve as a logical restriction, if moderated by a variance provision such as that attached as Exhibit "B," that will foster more orderly and efficient extensions of municipal boundaries through annexation; and

WHEREAS, the placement of such detailed and technical definitions in the Pinellas County Charter will make desirable modifications identified through experience difficult to accomplish and thus unduly frustrate annexation efforts.

WHEREAS, the Pinellas County Charter Review Commission was convened pursuant to the Pinellas County Charter and has reviewed the countywide annexation issues and the report of the Annexation Task Force of the Pinellas Assembly and putting technical annexation definitions in the Pinellas County Charter would make them difficult to amend through the lessons of experience.,

NOW THEREFORE, BE IT RESOLVED that the Pinellas County Charter Review Commission agrees with the recommendations of the Annexation Task Force of the Pinellas Assembly and joins them in urging the Board of County Commissioners to amend the County's ordinance to incorporate the definitions contained in the "Approved Policy Guidelines for Evaluating Proposed Voluntary Annexations" and to incorporate a variance provisions to mitigate unintended applications of the definitions in a manner that would create an undue hardship on continued municipal expansion.

BE IT FURTHER RESOLVED that this Resolution be included in the final report to the citizens of the Pinellas County Charter Review Commission and that this Resolution be forwarded to the Pinellas County Legislative Delegation for its consideration in the 2006 legislative session.

This Resolution shall become effective upon its adoption.

Commissioner _____ offered the foregoing resolution and moved its adoption, which was seconded by Commissioner _____, and upon roll call the vote was [unanimous] or:

AYES _____

NAYS _____

Absent and not Voting _____

Exhibit "A"

APPROVED POLICY GUIDELINES FOR EVALUATING PROPOSED VOLUNTARY ANNEXATIONS (January 11, 2005)

Background:

In Pinellas County, voluntary annexations are subject to the provisions of County Ordinance No. 00-63 as a result of an amendment to the County Charter approved by the electorate in November 2000. Ordinance No. 00-63 requires that a proposed voluntary annexation meet the following basic requirements:

- (a) that the property proposed for annexation is located within the annexing municipality's planning area, is contiguous to the annexing municipality, is reasonably compact, and does not create an enclave;
or
- (b) that the property is located within the annexing municipality's planning area, is located within and reduces an enclave existing on the effective date of the ordinance, and neither involves a property that is subject to an existing annexation agreement nor provides the basis for annexing an adjoining property that is subject to an annexation agreement.

Proposed voluntary annexations must also comply with the procedural requirements of County Ordinance No. 00-63.

The County ordinance allows for a limited review of proposed voluntary annexations by the Pinellas Planning Council, and provides an opportunity for an affected party (which includes Pinellas County) to petition the Council and the Countywide Planning Authority (CPA) to conduct a full review of a proposed voluntary annexation for consistency with the criteria and procedures of Ordinance No. 00-63. The criteria for determining whether a proposed annexation is consistent with the basic requirements for annexation rely upon terms that are not clearly defined. While "compact", "contiguous", and "enclave" are defined in the Ordinance using definitions from the Florida Statutes (the definition of "enclave" was simplified), these definitions leave considerable room for differences in interpretation. There were no clear and agreed upon guidelines established by the CPA for determining when these annexation requirements have been satisfied.

On January 11, 2005, the Pinellas County Board of County Commissioners, in their role as the Countywide Planning Authority, directed County staff to use the following policy guidelines that are quantified when reviewing proposed voluntary annexations for compliance with the annexation criteria in Ordinance No. 00-63. The present criteria will remain in the Ordinance and County staff will follow the

policy guidelines so that it is predictable what is an immediately acceptable annexation and what will be held out for further scrutiny.

Approved Voluntary Annexation Guidelines:

1. "Contiguous" means that a substantial part of a boundary of the area to be annexed is coterminus with a part of the boundary of the annexing municipality. This requirement would be satisfied when 50% or more of a boundary on a single side of the annexation area is coterminus with the boundary of the annexing municipality.
2. To ensure that annexation results in a municipal area that is reasonably compact, the following guidelines will be used:
 - At least 18% of the total perimeter of the proposed annexation area must be coterminus to the annexing municipality. All areas of the annexing municipality that are coterminus to the proposed annexation area are considered when determining whether this guideline has been met. This percentage is based on the typical dimensions of an R-3 residential lot (60' by 100'), which would meet the 18% requirement if its shortest side were adjacent to the municipal boundary.
 - Annexations are prohibited from creating pockets. A "pocket" would be created when an unincorporated area is enclosed along more than 82% of its perimeter by a single municipality. Pockets would include public ROW.
3. Experience has shown that, while individual annexations may satisfy the Ordinance requirements for contiguity and compactness, the cumulative impact of annexations over time in a specific area can result in municipal boundaries that are arguably inconsistent with these requirements. Therefore, the expansion of municipal boundaries through the aggregation of individual annexations in a specific area will be evaluated using the above guidelines as applied to the aggregated annexation area. While implementation of this requirement will require some judgment and must be reasonably applied, it will generally require that proposed annexations be evaluated in the context of the aggregated annexations back to where they have their smallest connection (as a percentage of the total perimeter of the aggregated annexation area) with the rest of the municipality. This cumulative application of the annexation criteria means that a municipality can continue to annex property in a certain area as long as the connection between the aggregated annexation area and the rest of the municipality constitutes at least 18% of the total perimeter of the aggregated annexation area. If the aggregated annexation area with or without the proposed annexations does not meet the voluntary annexation guidelines, then expansion of this area through further voluntary annexations could

not occur unless the proposed annexation would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

4. The prohibition about creating "finger areas" should be adequately addressed through use of the voluntary annexation guidelines discussed above.

G:/AnnexReviewCriteria 1-11-05

Exhibit "B"

Variance In order to authorize any variance to the applications of these definitions the following criteria shall be considered by the Pinellas Planning Council, the Board of County Commissioners and the annexing local government's governing body:

- (1) Special conditions. That special conditions and circumstances exist which are peculiar to the land including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) No special privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by the definitions to other similar lands.
- (3) Unnecessary hardship. That literal interpretation of the definitions would deprive the applicant of rights commonly enjoyed by other similarly situated properties.
- (4) Purpose and intent compliance. That the grant of the variance will be in harmony with the general intent, purpose, and spirit of allowing annexation while at the same time preserving and enhancing the efficient delivery of service.
- (5) Detriment to public welfare. That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (6) Reduction of Problems That such variance would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

ARTICLE II.

POWERS AND DUTIES OF THE COUNTY

Sec. 2.04. Special powers of the county.

(t) All powers necessary to establish by ordinance the exclusive method and criteria for voluntary municipal annexation, including the delineation of areas eligible for annexation, to the extent provided by general law. The ordinance shall require that properties proposed for annexation be contiguous and that the resulting municipal area is compact. The following definitions shall apply:

1. An area proposed for annexation is "Contiguous" to a municipal boundary if 50% or more of a boundary on a single side of the area to be annexed is coterminus with a part of the boundary of the annexing municipality.
2. An area proposed for annexation maintains a municipal area that is compact if:
 - a. At least 18% of the total perimeter of the proposed annexation area is coterminus to the annexing municipality. All areas of the annexing municipality that are coterminus to the proposed annexation area are considered when determining whether this guideline has been met.
 - b. A proposed annexation does not create a pocket by enclosing an unincorporated area, including public rights-of-way, along more than 82% of its perimeter.
 - c. The length of contiguity of an aggregation of prior annexations, together with a proposed annexation back to where the area has its smallest connection to the municipal boundary constitutes at least 18% of the total perimeter of the aggregated annexation area together with the proposed annexation.

Variance In order to authorize any variance to the applications of these definitions the following criteria shall be considered by the Pinellas Planning Council, the Board of County Commissioners and the annexing local government's governing body:

- (1) Special conditions. That special conditions and circumstances exist which are peculiar to the land including the nature of and to what extent these special conditions and circumstances may exist as direct results from actions by the applicant.
- (2) No special privilege. That granting the variance requested will not confer on the applicant any special privilege that is denied by the definitions to other similar lands.
- (3) Unnecessary hardship. That literal interpretation of the definitions would deprive the applicant of rights commonly enjoyed by other similarly situated properties.

- (4) Purpose and intent compliance. That the grant of the variance will be in harmony with the general intent, purpose, and spirit of allowing annexation while at the same time preserving and enhancing the efficient delivery of service.
- (5) Detriment to public welfare. That such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (6) Reduction of Problems That such variance would reduce the size of an existing pocket or increase the contiguity of the aggregated annexation area with the rest of the municipality.

BALLOT TITLE: PROVIDE DEFINITIONS FOR CONTIGUOUS AND COMPACT FOR THE REGULATION OF ANNEXATION INCLUDING A VARIANCE PROVISION

BALLOT QUESTION: Shall Article II, Section 2.04(t), be amended to add definitions for the terms “compact” and “contiguous” and standards for approving variances from those definitions all to be used in determining a property’s eligibility for annexation?

_____ YES FOR APPROVAL

_____ NO FOR DISAPPROVAL