

PALM BEACH COUNTY
CITIZENS TASK FORCE

Thursday, May 22, 2003
2:13 p.m. ? 3:12 p.m.
100 South Australian Avenue
West Palm Beach, Florida

Reporting:

Shirley King
Notary Public

ATTENDEES

Wesley Blackman, Chairman
David Carpenter
Stephen Dechert
Susan Daniels
Rosa Durando
Carmela Starace
Maury Jacobson
David Horne
Wayne Larry Fish

Aimee Carlson, Senior Planner, Zoning Division
Lenny Berger, Esquire, Assistant County Attorney
Bill Whiteford, Zoning Director
Jon MacGillis, Zoning Administrator
Alan Trefry, ERM Environmental Director
Peggy Smith, Secretary

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PROCEEDINGS

CHAIRMAN BLACKMAN: What is our pleasure here? I know we all have other things to do.

MR. CARPENTER: We're becoming like the U.N. I think.

CHAIRMAN BLACKMAN: And we really can't act now in any official capacity.

MS. STARACE: How many people said they were going to come that haven't come?

CHAIRMAN BLACKMAN: At least three more people.

MS. STARACE: Because the rain is making people go, like, instead of the 60, they're all going 30 and 35.

CHAIRMAN BLACKMAN: Are we right at 11 or 10?

MS. CARLSON: We were at 10.

CHAIRMAN BLACKMAN: So even if the other two get here, we wouldn't have a quorum.

MR. FISH: If we're not going to act officially, I'd rather see us adjourn and come back, 'cause we got to go over the whole thing again.

MR. WHITEFORD: Well, yes and no maybe. I mean, since you guys are here and if you'll take out the time to at least give us a little bit of feedback.

CHAIRMAN BLACKMAN: But then we hear it twice and then you're punishing the people that do come.

MR. MACGILLIS: Maybe there's no comments from the other people and we just say, let's pass it, unless they do have comments.

MR. WHITEFORD: As long as there's six of you, we have a majority vote.

But I guess you're right, we need to see you guys show up and not adjourn and not get anything accomplished. But at the same time, at least maybe getting some feedback so that we can go off of -- you know, accomplish something so that maybe we can refine this a little bit more for the next visit.

CHAIRMAN BLACKMAN: Well, I guess we're all free to come and go or stay or whatever.

MR. CARPENTER: I'll do either one. But I think as a Board we've got to figure out, are we going to keep showing up here and not having quorums or are we going to get people that are going to show up to the meeting.

MS. STARACE: Maybe you want to change what a quorum is.

CHAIRMAN BLACKMAN: Does it definitely have to be 50 percent or is that governed by our bylaws?

MS. CARLSON: It has to be 50 percent plus one of the membership. We have a couple of folks, and we've been trying to get actual letters of resignation from them, because they've resigned verbally; but without a letter, Bob said that doesn't count. But if you have a 19-member board but you only have 17 members that are actively appointed -- they haven't given us an official letter yet. That's the AGC boys; both of them have resigned.

MS. STARACE: Either that or change what you mean by quorum.

MR. CARPENTER: Why don't we send out a letter to them asking them to give us --

MS. CARLSON: We have. We have.

MR. CARPENTER: And they haven't?

MS. CARLSON: Haven't had a chance, I guess, to do one yet.

MR. WHITEFORD: Along the same line, obviously this has been an ongoing issue that CTF quorums are not only difficult to get, but it's a very large group; there's 19 members, 19 alternates, there's 38 total members. We make 38 packets, we coordinate with 38 people, we communicate with 38 people for every meeting. It takes an enormous amount of our time and effort and sometimes it's for naught. Very large unwieldy group; an

effective group and a good cross-section of the community for the purposes of what we do.

However, there is a County policy that does, in direction from the County Administrator, to reduce all advisory committees down to a more workable number, which typically is nine, seven members and two at large alternates. But, again, we'd want to see the same makeup of the committee being very much like the Board of Adjustment or the Zoning Commission, where you have representations from the various interests groups. And that's something that's been kicked around and discussed at length and certainly would help us get quorums as well.

The one benefit of perhaps going that route is what we talked about last month, and we do have some of that language in your backup, about the ability of the CTF to create subcommittees; those are the informal groups that then would tie in the special interests groups, depending upon exactly what the issue was. So no interests group would be ignored, no interests group would have a form to speak, they would only be called together, though, as a subcommittee on an as-needed basis when we got into whatever that subject matter was. And that's one scenario that's been kicked around that may help the whole committee function more smoothly and on a more regular basis.

MR. JACOBSON: I don't remember us having this severe a problem in the past.

MR. CARPENTER: Recently I think it's been at least at its worse.

MR. FISH: We've also had a lot more meetings than we've had in the past in a row. And people are getting burned out as we go along.

MS. STARACE: We met one Thursday a month; now we're meeting every Thursday.

MR. CARPENTER: But still the thing is, they call and they say they're coming.

MR. FISH: If we have 10 only, we need to get a couple of alternates planned to come as well or not have the meeting.

CHAIRMAN BLACKMAN: And to the benefit of the people who are -- to the people who are making the calls, I was told that I was the tenth person and that it was very important that I do attend.

MS. DANIELS: I object. I was Number 10 and they told me it was important that I be here.

CHAIRMAN BLACKMAN: The word is getting out and it is a good thing.

MS. CARLSON: The ladies are doing that. When we are perilously close, we are really trying to emphasize that.

In part, I mean, you have two alternates here today. Sometimes I think one of the things that would help as well is a little bit earlier communication back, too. Because sometimes what happens is, we might call a member and it will take a couple of days before the member is able to confirm yes or no, for whatever reason, and by that time, to call the alternate on Wednesday and say, hey, are you available, the alternates are shaking their head, no, they probably aren't. And some of you are very good when you know you're going to be gone in advance to tell us and we can immediately coordinate with the alternate, which we do.

MR. HORNE: Everybody knows who their alternate is, though, right?

MR. JACOBSON: It strikes me that there's something you might want to look at and encourage is, Number 1, is to encourage the alternates to come to the meeting and give them the opportunity to participate, even though they might not have a vote, but at least have the opportunity to participate and at least they're up to speed. An alternate coming in that hasn't been part of this thing over an extended period of time, I don't know just how effective are they and how much will they know; and I'm talking about myself as well being put in that position.

MS. CARLSON: A lot of alternatives do do that, the ones that are more likely -- you

know, some members come every single meeting and some members, like yourself, you have no alternate. So if you're not here, there is no alternate.

MR. JACOBSON: That's because I'm in love with you, Aimee, but go ahead.

MS. CARLSON: Stella comes a lot of times even when Rosa is here. David has come several times even when D.J. is here. Susan will come, Charlie will come. There are some people that are actively coming just for that reason, because they said exactly what you're saying, they don't want to just show up one day and not know what's going on and be put in that situation.

MS. DURANDO: If you have some appointees that have missed -- and you know who they are and I don't, but I can see that there's a pattern of missing -- is it within your ability to suggest to the Commissioner who appointed them, look, there are some people who would be faithful, good attendees, and your appointment ain't so great; can you change your appointment and switch?

MS. CARLSON: Well, I think that's in part why the Board passed that resolution last year, which the CTF is not under right now because you are governed by the Code, which was adopted by ordinance so the resolution doesn't affect you. And that resolution does away with the excused absence concept; and three strikes, you're out. And I think they were doing that because they saw people that maybe came to every second meeting, every third meeting, whatever it was, enough to just stay on the Board. They were occupying a seat and there are other people out there that might want to participate.

MS. DURANDO: Right. Because since you mentioned Stella, she was a good member that came faithfully when she was a full member. And I usually tell her, I've got a conflict, and I don't wait for you, Stella, keep that Thursday open, I have another meeting. But she should be reappointed, in my opinion of course. And I don't think her replacement, which was a purely political decision, let's face it -- is there a chance that the person who didn't reappoint her could be approached and say, who you did is hardly ever here, how about thinking about reappointing Stella? Actually, she's in her district, believe it or not.

MS. CARLSON: I don't know if that's something, Commissioner appointees, that Staff would want to start.

MR. WHITEFORD: But to get back to the Commissioner appointments, it's not that simple, because there's 19 members, 19 alternates. If you just go with the 19 members, only seven of you are actually appointed by a Commissioner; the other 12 are appointed by or selected by a group. That selection goes to the County Commission and then the County Commission picks out of those numbers the names that were provided to them by that group, sometimes it's one, two, three, whatever, and then the Board as a group ratifies or selects that person. So it's not a District Commissioner appointing any one of those 12. It's done at the Board of County Commissioners.

CHAIRMAN BLACKMAN: If we went to a smaller group size, would that still be the format or would they all be County Commission appointees?

MR. WHITEFORD: I think probably at that point they'd be County Commissioner appointees.

MR. HORNE: Who sets the quorum requirements?

MR. WHITEFORD: It's done by the bylaws. And it's very standardized for that group of people, for seven plus two, which is seven board appointments, two at large. It's the simple majority.

MR. CARPENTER: You said that we weren't affected by the recent policy set by the Board because our absentee policy is in the Code.

MS. CARLSON: Correct, you're not yet. When the Code is readopted you will be.

MR. CARPENTER: When is that?

MS. CARLSON: You'll be affected this fall as soon as the Code is done.

MR. CARPENTER: This fall it's going to change and we will be affected by that. At least there's something upcoming that could provide --

MR. WHITEFORD: Yes. Of course we'd have a lot of vacancies -- I mean, hopefully we wouldn't. Hopefully some stability would occur. Because it's not always easy getting vacancies filled, not just from District Commissioners. That happens every once in a while; they find it difficult to find somebody to put on any one of the hundred committees they have to fill. But also sometimes getting some of the organizations that are represented on the CTF are not always quick to respond with a primary and secondary candidate.

CHAIRMAN BLACKMAN: Well, how many hot-button issues or topics do you want to talk about that you think merit discussion of the four items?

MS. CARLSON: Well, in reality, I don't anticipate much discussion on the items that were going to be before you today.

MR. WHITEFORD: Really quick before you go to that, though, just on that general discussion, I see everybody kind of nodding, I don't hear a lot of negative feedback. There are some things I wanted to share with you, because those are ideas that we've had and we've discussed in-house and quite possibly the direction we're going to go and will be proceeding before possibly proposing amendments to that effect to you down the road, and of course that would affect the makeup of this Board, so just to kind of give you a heads-up. But we'll be looking for some solutions to hopefully some of these problems and frustrations you've expressed.

MS. STARACE: We couldn't act like a subcommittee or something and just give a consensus and then we could bring it to the Board next week?

ASSISTANT COUNTY ATTORNEY BERGER: The Board has to make you a subcommittee.

CHAIRMAN BLACKMAN: Susan.

MS. DANIELS: To try to put a Band-Aid on the problem before you get a new structure in place, what if we had the requirement, that besides the regular members that are required and expected to attend each week, that we had at least two alternates that were required to attend each meeting, so that way you'd have a back-up plan.

MR. WHITEFORD: That would be terrific if we had two at large alternates, but unfortunately we don't have two at large alternates.

MS. DANIELS: So how about if you rotated your alternates and you set up a calendar and you said, okay alternates, week five, week six, and you assign two alternates for each week or each month of meetings?

MR. WHITEFORD: It would be great if we could actually get two volunteers who we could count on. And then we could have as many of the other alternates show up or work out between the various members and their alternates, have what's been occurring between the reliable people and their reliable alternates continue. But maybe we could get two volunteers, when we get to the final fix, agree to participate on a more regular basis and hopefully fill these minor setbacks like we had today. If we had two alternates here today, we'd be having a meeting.

CHAIRMAN BLACKMAN: Maury.

MR. JACOBSON: Bill, let me ask you this, what would it take to set up a condition as you've described, as there being two alternates at large?

MR. WHITEFORD: It would actually take an amendment to the bylaws and the Code.

MR. JACOBSON: Would that take the Commissioners to do that?

MR. WHITEFORD: Eventually, yes.

MR. JACOBSON: Would it be a good idea if we initiated a letter from the Chairman

of this Board to the Commissioners indicating the need for this thing and how progressive it would be?

MR. WHITEFORD: Well, why don't we do this, since you really can't take any formal action today and what I'm just getting back is general feedback from a pretty good group here, why don't we proceed with some language and a proposal and come back to you and have it placed on a regular agenda at a day when you have a quorum and we can talk about it.

CHAIRMAN BLACKMAN: Good idea.

MR. WHITEFORD: Okay, very good.

MR. JACOBSON: Makes sense.

MR. CARPENTER: I know the last few weeks back we were given an attendance report or whatever you want to call it. I was wondering if that could be brought up to date and see if under our current Code attendance policy that there's anybody on there that's already affected by too many absences.

MS. CARLSON: No, there would not be, because of the fact that that policy applies to regular meetings only --

MR. CARPENTER: Okay.

MS. CARLSON: -- and these are not regular meetings.

MR. CARPENTER: Why isn't this a regular meeting?

MS. CARLSON: Your regular meeting is the first Thursday of the month. You're a board that's typically meeting once a month. The attendance policy, the policy you're under today -- and it's outlined in the Code -- and the new policy that the Board set for everybody, but the majority of the Board -- well, I shouldn't say the majority, but at least 20 odd boards in the County are not following right now, both clearly indicate regular meetings only. And that was intentional because of situations like this, where boards might have to meet on a more frequent basis. I don't think they wanted to penalize people; you know, you made a commitment to come once a month. The LUAB, for example, they make a commitment to come twice a month. When they go through the amendment rounds, sometimes they meet weekly for a month period.

MR. CARPENTER: Those changes in the upcoming Code revision, is it going to just change to every meeting or just the regular meeting?

MS. CARLSON: Just the regular meeting.

MR. CARPENTER: This is kind of self-defeating, not counting our meetings while we're sitting here as somebody being absent. I mean, what's the policy --

CHAIRMAN BLACKMAN: Susan.

MS. DANIELS: Mr. Chairman, I empathize with your frustrations totally and I can give you a classic example: I just resigned from the Traffic Performance Standards Committee because for two years we were supposed to meet once a month and we were meeting once a week for a half a day. And so -- and it would be because somebody would say, oh, no, this is an emergency, this is a fire we have to put out, and we would have to meet; now we didn't have a very important person here today, so can you meet again in two days. And so that policy is to avoid penalizing somebody when they get in a situation of having to meet weekly and it's just too much to ask when somebody has previously given a commitment of once a month.

MR. CARPENTER: But I mean in your case, you did what you perceived to be the right thing in resigning. In our case, these people are still hanging on and we're sitting here.

CHAIRMAN BLACKMAN: I think maybe a more active use of the alternates. Some of the people that are not here have alternates that I'm sure weren't called. And so maybe encouraging members to do that.

MR. WHITEFORD: We'll get the word out.

MR. FISH: Members as well as Staff.

CHAIRMAN BLACKMAN: Yeah, the Staff can --

MR. FISH: Because the members that don't attend, they're going to call their alternates, the ones that are chronically not here.

MR. CARPENTER: I think maybe we need to do something to help ourselves and that may be to ask the Chairman to come up with a letter, some sort of form letter, to send to all the members for them to sign and return related to the meetings and what their intent is about coming to every meeting.

MR. WHITEFORD: We can help you draft a letter, if that's what you choose to do. We just did one recently for the subcommittee.

MR. CARPENTER: And so maybe that might call some people to attention. And if they can't make it to the meetings, you know, we've enjoyed having them on here, but get somebody else that'll show up so at least we can have a meeting.

CHAIRMAN BLACKMAN: We have all kinds of suggestions. And maybe we can ask them if they're still interested, people we haven't seen.

MR. CARPENTER: If they don't plan on coming, that ought to be one of the things that should -- boxes to check; you plan on coming to every meeting, every other meeting or calling in the day -- I mean, if you do, then maybe we need somebody else.

You know, I mean, but I think it's up to us to come up with something with a failure of an organization to be able to meet.

MS. DANIELS: Charlie Walker always brought donuts, I mean, gooey things.

MR. CARPENTER: So that was to make you do a lot of chewing so you wouldn't talk.

MS. DANIELS: That was probably the strategy with me.

CHAIRMAN BLACKMAN: Maybe we should have theme meetings, like a pizza day.

MR. CARPENTER: Charlie is retiring next month.

MR. JACOBSON: Are we having a party for him?

MR. CARPENTER: He's having a party, yeah.

MR. WHITEFORD: Well, if you want to move on to something interesting, I've got one for you.

CHAIRMAN BLACKMAN: Go ahead.

MR. WHITEFORD: One of the things on the agenda today was a little bit of a discussion about the Standard Zoning Districts. And one of the things that we're proposing is combining some districts and actually getting rid of some of the districts that have been used -- or used sparingly. And in your backup material there's a list of those districts that we'd like to go to.

One of the things that I have to share with you -- it's pretty well complete. We've been kicking it around using it at Staff level -- is an outline highlighting which district -- what land

use category these districts would be allowed in. Because what goes hand in hand with this concept is essentially going back to a pyramid still of zoning; meaning that, if you have a land use and you have a corresponding zoning district, that the zoning districts allowed in the lesser planned categories, the ones below it, would also apply. And for those of you who have been around for quite some time probably realize that that's kind of the way it used to be. And it changed when the 1989 Comprehensive Plan got adopted and the ULDC. Because you may recall that in 1989, all property had a maximum density and a minimum density. At the same time, the Board took out of the Comprehensive Plan all of the special policies that applied to those specific pieces of property and they wanted more specificity in their zoning; they wanted to know, if we got this land use, you get that zoning, if they had surety, they knew what to expect and what they were going to get. In addition, with that zoning came the requirement to have a minimum density. The minimum density concept has been taken out of the Plan for various reasons that I can't go into or explain, but there's no longer minimum densities in most of our planned categories. There are in the higher planned categories, but not in most of them. So that opens up the opportunity to have more zoning districts available, because all it really is is just different lot sizes. The density will remain driven by the Comprehensive Plan.

In addition, if you look at the Code and you look at all the uses that are allowed in these zoning districts, they're very similar. This is not opening up a Pandora's box. There are no uses that are allowed in RE that aren't allowed in RS, for example. And while AR would become consistent with all planned categories, a few years ago we did some amendments, because the County is Ag. friendly, to allow essentially agricultural uses in every zoning district. So if you went to the Code right now, you'd see that bona fide Ag. is permitted in RS. So by allowing AR zoning, what you're tying into is not requiring that person to rezone because they would be considered inconsistent with the Comprehensive Plan any longer.

MS. DURANDO: Now I don't understand.

MS. STARACE: Give an example.

MS. DURANDO: I know we voted on the AR and it was a poorly-worded situation which we're stuck with. And I'm afraid some of these chickens are going to come home to roost very quickly now because of the amended Right to Farm Bill.

Can we revisit that and have more constraining wording in agricultural and residential areas?

MR. WHITEFORD: I don't know. The Board is very Ag. friendly.

MS. DURANDO: Well, that's crap; you know it and I know it too.

What they threw out in Tallahassee, which is waiting for a signature, will dismantle all the good that ERM has tried to do in the last several years.

MR. WHITEFORD: I can't explain Tallahassee and what's occurring in Tallahassee.

MS. DURANDO: Well, it's going to take away the County's ability to have any constraining wording in reference to agricultural. And I don't mean Ag. Reserve or EAA. I mean, any agricultural anywhere where there's just one shade house and a bunch of potted plants.

MR. WHITEFORD: And I know a little bit about what Rosa is talking about, because the County is equally concerned and we've had our own County lobbyist up in Tallahassee trying to get clarification on the Right to Farm Act because there's some exemptions that farms have that the everyday normal resident doesn't have. If you're operating in a farm, you don't have to pull a permit for a farm structure, that type of thing.

MS. DURANDO: That's the least of it.

MR. WHITEFORD: And that's actually been in the State Statutes for quite some time

and it is a procedure that the County does honor.

MS. DURANDO: No. We asked for 25 percent set-aside.

MR. WHITEFORD: You're moving on to kind of a different issue.

MS. DURANDO: I think it's part of this. It's going to be --

MR. WHITEFORD: I don't know.

MS. DURANDO: -- unenforceable now.

MR. WHITEFORD: The 25 percent set-aside is in the Veg. Protection Ordinance, Article 9. What I'm talking about is just the zoning districts and how we would apply the various districts and the uses that are permitted in those districts to the planned categories.

Article 9 kind of -- I don't want to say stands on its own, but it has its own separate set of requirements that aren't necessarily zoning based; they're based upon the property. Maybe Alan here could talk a little bit about that.

I don't know that it resolves -- my response resolves your issue.

MS. DURANDO: Should a commercial agricultural enterprise be required to buffer in residential property if there's existing residential there? I say, yes.

MR. WHITEFORD: And the County's Code has had an exemption for bona fide agricultural uses for quite some time, a long time, in its Landscape Code. Bona fide agricultural uses are exempt from having to provide landscape and landscape buffers, except for certain uses.

You've heard me say this before because it came up, that, gee, we need to start providing buffering for agricultural uses. Well, we just can't do that across the board because road crops and tomato fields don't need buffers. The way the County addresses it is through our supplemental regulations for specific uses. Specific uses have been identified, the more intense type of agricultural uses, and those are addressed in the Code and are required to provide buffers. But it's not just an across-the-board requirement for bona fide Ag. to have to provide landscaping.

MR. CARPENTER: Let me ask a question. Are we going to sit here -- since we're all here, does that mean we're going to informally go over this or what?

CHAIRMAN BLACKMAN: We can't keep you here.

MR. CARPENTER: I mean, if we're going to go over it, I would prefer to go over it just like we're in session, go over it or either not go over it.

CHAIRMAN BLACKMAN: Well, Staff is going to be here. I think those who want to stay and hear Staff, fine.

MR. WHITEFORD: I just wanted you to mull it over, because I don't think it was real clear in our backup material that this was one of the concepts that we're going to -- the backup material shows that there's less zoning districts, but there's also some other things that go along with it that you're going to see at a future date and I just wanted to throw it out, make sure you're aware of it. You can talk about it today, give us feedback today, save it for when you actually have a quorum. But at least be aware of it, mull it over, think about it, let us know where you stand on it either today or at the next meeting.

CHAIRMAN BLACKMAN: So of the hundred sheets of paper before us, this is the most important one?

MR. WHITEFORD: I don't know about that, but I like it. It's a change in concept for the County. You've literally gone from a one-to-one correlation, from zoning to land use, to go into the pyramid style and everything kind of goes --

CHAIRMAN BLACKMAN: We're going back toward the textbook.

CHAIRMAN BLACKMAN: Larry had a good suggestion, in that, someone take roll and then people won't feel more free to leave if they're registered as being here, or at least they'll have some freedom to make their own choice.

MR. WHITEFORD: That's why we didn't take roll.

MR. FISH: That defeats the purpose of having a meeting and calling all these people. We should take roll and have who's here on record.

MR. WHITEFORD: I was only kidding.

MR. FISH: I know, but that's how I feel.

CHAIRMAN BLACKMAN: Let's have roll and we'll declare an unquorum.

MR. CARPENTER: Well, let's do it like we're going to do a meeting or either go home.

MR. WHITEFORD: I'll tell you what; it always kills me to read off all these names that aren't here. Can we just read the names that we have here and then, you know, there's not enough names --

CHAIRMAN BLACKMAN: Well just say your name if you're here.

MR. CARPENTER: Let's start with Rosa and go around and just say your name in the mike as being here.

MS. DURANDO: Rosa Durando, here.

MR. JACOBSON: Maury Jacobson, I think I'm here.

MR. CARPENTER: David Carpenter, here.

CHAIRMAN BLACKMAN: Wes Blackman, mostly here.

MR. FISH: Wayne Larry Fish, here.

MR. DECHERT: Steve Dechert, here.

MR. HORNE: David Horne, here.

MS. DANIELS: Susan Daniels, here. And next to me is Carmela Starace, who is also present, but stepped out for a minute.

MR. WHITEFORD: Mr. Chair, you don't have a quorum.

CHAIRMAN BLACKMAN: That's right. With that, you can stay or go. But Staff is here and if they have anything to enlighten us about, we'll listen.

(ULDC Amendments)

MS. CARLSON: If you want, we can run through the four articles quickly. There's really not a lot of issues with them.

MS. DANIELS: Can I ask one question on your pyramid? I like this idea; I think it's common sense and it's very logical. The question that I have that I see several other groups having a question on is under your commercial and industrial category. It used to be that when -- you know, where this is going? --

MR. WHITEFORD: No.

MS. DANIELS: -- it used to be, when you got zoned for commercial for a shopping center, for example, and if it used to be a lower zoning district or even an agricultural use, you were still allowed to put cows on it and get your agricultural exemption because you had cows on it, so you paid your taxes at \$50 an acre instead of your taxes at the value for commercial land.

How has Staff addressed that?

MR. WHITEFORD: Well, that's not really a zoning issue, per se. It's a "property appraisers and tax collector" issue.

MS. DANIELS: But could they still use it for Ag.? If you got your 40 acres zoned for your shopping center, but you weren't going to build for three years, could you put cows on it and use it for Ag., because Ag. is not in your commercial pyramid here?

MR. WHITEFORD: There is a method to do that. There is something in the Code called a TAO, which is a Temporary Agricultural Operation. And it's a method that the County has to allow a PUD with 20 pods in it, the last five pods aren't going to be built for 10 years, you get a TAO on it. We will allow that person to remain farming that land until such time that they're ready to develop it. And I don't know that that's been used in a commercial sense. I'd have to look it up. But there is a mechanism, at least in that example, to do that. A commercial property -- somebody can correct me if I'm wrong -- but the tax collector typically does look at the future land use, not necessarily the existing use on the property.

But the Ag. exemption, you do see a lot of cows on the -- the Motorola property, for example, on Boynton Beach Boulevard, those cows have been out there for eons. But we don't address that as a zoning issue. More than likely that property has commercial land use, but maybe AR zoning. If that's the case, the zoning would allow the bona fide Ag.

MR. CARPENTER: I thought there was language in either the Comp. Plan or the Code which allowed properties either whether they're in the urban service or out of the urban service area to drop back to agricultural uses, interim uses. Isn't there something in there?

MR. WHITEFORD: I don't know. I mean, normally if you see cows on commercial property in the County, it's normally because it has commercial zoning -- or commercial land use but still has AR zoning, because usually your property is driven by your zoning category. And unless it was treated as nonconforming, you know, had been, there's just no change in use. That may be another scenario why cows are still on the property, but it just doesn't come up much. From a zoning perspective, it's not really a big issue. There were cows there before and there's still cows there today. I'm not sure that's any major impact on the surrounding property owner.

MS. DANIELS: But this wouldn't change what's been happening?

MR. WHITEFORD: Not in that regard.

MR. CARPENTER: All right. Go ahead, Aimee.

(ULDC Amendments - Article 14)

MS. CARLSON: The first one that you were going to talk about today is Article 14 that is currently Article 9, it's the ERM Standards.

And what has happened with this article is -- it looks a little different. If you were to compare this article to your existing Article 9, you would see that some items are missing and some items have been added in.

If you recall, earlier this year you looked at the -- I'm sorry -- actually, last year you looked at the Exotic Vegetation Ordinance. The Commissioners did end up adopting that earlier this year. We've put that in here in the form it's in today.

In addition, I guess there were some changes to the ERM Ordinance, to the actual Vegetation Protection Standards that were necessary because of the Exotic Vegetation Ordinance. That's items that you have not yet seen; those are in here.

And then also we've deleted the section of the Code that deals with the Wetlands Protection; it's sort of been merged in with the regular vegetation protection in here.

And what we did, to sort of highlight for you areas that are new language that's something that's new that you haven't already acted on before that maybe the Commissioners haven't adopted or is new because it's totally new, is we've highlighted that language in there. And if you had specific questions, Alan could go through and explain the reason for it, why that change was made. There's not too many of them.

That's what's happening here with this article. I don't know if you have questions on it.

MS. DURANDO: Which article is that?

MS. CARLSON: That's the big, thick one.

MR. HORNE: What pages are the changes on, Aimee?

MS. CARLSON: They're going to start toward the back. Give me a second to get to the first couple.

On page 49, this was something that actually back when you discussed the Exotic Vegetation Ordinance, there was some questions and comments about what an improved parcel would mean and some members made suggestions about clarifying that. You see that in there in the highlighted language in there. It's on 49 in the middle under, "F," improved parcel.

On page 52, there are two changes, adding "where applicable" to something, the site plan or the survey, and then "greater than one acre" down in the middle. I'd have to ask Alan the reason for those.

On 53 there is some language in there about clarifying what a DeMinimus impact would be. I think that is also something that came out of the CTF discussion on this article earlier.

And we've seen several iterations of changes to this article in the last year or so, only one of which was actually adopted by the Commissioners.

On page 55 there's some language in there to clarify that you can actually do some alteration of vegetation. Again, this was something that the CTF had talked about. The article in its current format seems to suggest that maybe you cannot take vegetation out of

right-of-ways, places where you'd think you would be able to do it. And that carries over to page 56 as well.

On page 58, language clarifying -- it's actually clarifying the standards for single-family residential there.

On page 59, the bottom of 59, some additional clarification, when you remove the nonnative vegetation.

On page 60, adding in "around a wetland" for your buffer there.

On page 63 sort of at the top, you could actually record a restricted covenant.

Page 64 in the middle, clarifying that it's the improved parcel constructed or approved after the date of 1986 would be maintained free of prohibited vegetation.

Page 67 down in the bottom of the middle.

And then there is -- that is basically it. Those are the changes that you have not yet seen before.

CHAIRMAN BLACKMAN: Any questions?

(No response.)

MS. CARLSON: Then the next one we were going to look at --

MS. STARACE: One question: On page 67, mitigation vegetation, other than trees, may be approved by ERM providing vegetation is -- I mean, isn't that a given? I mean, what do you mean "maybe"? It wasn't before? I don't understand.

MS. CARLSON: I need to get Alan to clarify what the intent there is.

MS. STARACE: I would just assume it would happen that way.

MR. TREFRY: No, ma'am. The way the ordinance reads right now is tree for tree.

What we're trying to do is put a little bit more -- it's been a policy now for four years to allow "other than trees" to be replaced for trees. So basically I'm codifying what has been a policy for about four years.

MS. STARACE: So it doesn't have to be a tree for tree; it can be a tree for something?

MR. TREFRY: Well, it's a tree for usually 30 or 40 or 60 plants, depending on the size and the nature of the plants.

MS. STARACE: I was just curious.

MR. TREFRY: That's the whole purpose of that.

MS. CARLSON: Any other questions? The next one --

MS. DANIELS: Alan, the question I have, and it's probably me being lazy and I have not read the section right, but when we have a situation where somebody goes in and clears the trees and they have to replace the trees, they have to come to you and you say, okay, you took out this many trees, it was a bad thing, you've got to replace it, could we have language in there that says, Staff has to have approval of the landscape plan, so that way they can't just come in and put -- you know, like if they wanted to clear for a view; let's say they wanted to clear mangroves for a view or something, does it require approval by Staff so that the bad guy doesn't come in and just plant things on the side so that he still has his view?

MR. TREFRY: Well, mangroves is a very bad example here because we do not have the authority under mangroves. That's a wetland type jurisdiction by DEP or Water Management District.

MS. DANIELS: Well, let's use another issue. Let's say there was a tree-line buffer between properties and that tree-line was cleared for whatever reason and Joe bad guy that says, okay, I'll replace these plant species with comparable vegetation, but he plants it in a way that leaves him his view; let's say he wanted to see the horse pasture next door or something. I wanted to know, does Staff have approval of the landscape plan so that

basically we're protecting the people by getting the vegetation back in as close to putting the property back to where it was before the destruction?

MR. TREFRY: We do have the approval of the landscape plan. We do not particularly tell them exactly where they have to put it.

MS. STARACE: It's private property.

MR. TREFRY: In other words, what we do is, our approval of the landscape plan is for the types and species of materials that's being put back, not on the -- or the location it's being put back. We do use advisory type of activities when they want to use a tree that will typically -- or a plant that will not typically reside in the area that they're putting it into. But as far as telling them that they have to put a solid wall of trees back where they took down the solid wall, we do not get into that at all.

MR. DECHERT: Quantity is included in that, right?

MR. TREFRY: We definitely have full authority over quantity and quality; the Number 1 quality trees in Florida and the numbers.

MR. DECHERT: But if they wanted to plant them all on the corner and bunch them all in one place --

MR. TREFRY: Well, we won't let them do that either, unless it's supposed to be trees that are to be grouped; like palm trees are better when they are grouped, pine trees we won't let them put them all in one corner because typically they overshadow each other, we want them more spread out. So we look at that type of activity so that they won't put 500 trees into a 200-tree place.

MR. DECHERT: We do have some say-so.

MR. TREFRY: That's part of the settlement agreement that we write with these folks.

MS. STARACE: And it varies?

MR. TREFRY: Every one of them is different.

CHAIRMAN BLACKMAN: Anything else?

(No response.)

(ULDC Amendments - Article 5.)

CHAIRMAN BLACKMAN: Moving on.

MS. CARLSON: The next one is Article 5, Chapter A, it's Design Standards.

And what's occurred here is we've got our architectural guidelines that were adopted about two years ago, along with our rural design guidelines that were adopted about three years ago, and they've been merged into a single chapter. There's no real substantive changes to the language, just putting them into a single chapter. And there is one change that's not shown in here that will have to be brought back at a later date, and that is actually the change regarding the Master Sign Plan and the Master Sign Program.

If you recall, when we looked at the Sign Code about two months ago in the preliminary review of it with Michael, there was a two-step process laid out. The County's still going to have the two-step process with the Master Sign Program, however, the

detailed portion of the requirements for the detailed step, which is what you do later on, will be placed in the architectural guidelines. It's still going to be in the Code; it's just moved in here. It's not in this version that you got earlier this week.

MR. WHITEFORD: What it does is it folds in the Master Sign Plan that we were going to create. No sense in creating something else; just fold it in with the architectural review and they'll all cover building structures and signage.

MS. STARACE: That's what we do in most of the cities.

MR. WHITEFORD: So that way we weren't creating another review process and another bunch of things we have to take in and review and blah, blah, blah; just to fold it in with something we already had that was closely related.

MS. CARLSON: As far as comments coming out of the subcommittees on this, there really were none. But the general architectural guidelines, there was one question that came out of the rural subcommittee, and it dealt with the use of arches and whether arches are rural or not.

MS. STARACE: You mean like ranch --

MS. CARLSON: If you think of the -- I think it's the Walgreen's at Crestwood and Southern and it has -- I think the stucco was a different color to create the arches to break up that wall, and whether that's in here, it's contemplated that someone could do that, is that rural or not. The subcommittee really didn't have any consensus. It was really one person brought it up and the rest of them, they don't know.

MR. CARPENTER: What is it again?

CHAIRMAN BLACKMAN: That was kind of my reaction.

MS. CARLSON: Whether arches are rural or not.

MR. CARPENTER: Can a horse walk under it? I guess that would be the test.

(Group discussion)

(ULDC Amendment ? Article 5)

MS. CARLSON: The next item is the density standards for the County. And, again, consistent with trying to consolidate like provisions, what we've done here is, we've taken the voluntary density program, which is our affordable housing program -- not the same thing as the work force housing that you've probably heard about -- and merged it into a single chapter, along with the TDR program, the County's Transfer Development Rights Program. There are no word changes; it stays the way it is today.

MS. STARACE: That's like mitigation, that's when you can do mitigation.

MS. CARLSON: That's what's being talked about at the work force housing. And that's probably a year out. There's a whole separate committee that's dealing with that. VDB is just a mechanism whereby pledging that you'll do a certain number of affordable, low income, very low income housing to get a density bonus. And there's some locational criteria. The County looks at the concentration of low income housing in the area. If you go into an area -- you can't do VDB's in an area where there's a lot of low income housing

already.

MS. STARACE: Does that allow you more trips on the road; is that part of the bonus?

MR. CARPENTER: You don't have to approve anything related to your increase in land use or TDR's in order to get Voluntary Density Bonus do you?

MS. CARLSON: No. I mean, you'd go to the LUAB and they do a review of it.

For those of you who don't know, the LUAB is the planning -- it's your equivalent on the planning side and they would make a review of it. But you're not having the Comp. Plan Amendment --

MR. CARPENTER: You don't have to justify why you're not using TDR's in order to go to the --

MS. CARLSON: No, you do not. Your justification -- the only place that they require justification is for the Comp. Plan Amendment to increase the density or change the land use.

MR. WHITEFORD: One of the unique differences between the two that we thought about changing but kind of backed off, is that, you actually can get your first two TDR's, your first two units per acre, administratively through DRC, but any VDB density bonus goes to the Board.

MR. CARPENTER: You can get two TDR's through DRC?

MS. CARLSON: Well, wait. For a subdivision only, not for a planned development. Any TDR, a single unit for a planned development, requires Board approval.

And then as far as the TDR program, most of you remember when we rewrote it a couple of years ago, so it's pretty much -- needs very little change. There's one change that's been made. And that change shows up on hand-numbered page 15 at the bottom there.

When we originally had the task force that rewrote the TDR program, one of the comments that came out of the Commissioners was to look at providing increased buffers to separate the density of the TDR's with the adjacent. What happens is, it works off of a density disparity, so we looked at proposed density on the TDR project and the surrounding density and you have a minimum buffering. For every unit per acre above, you provide a greater and greater buffer. What happens is, it eats up a lot of land for the buffer, so smaller projects have a hard time using TDR's. And then you have things like industrial next to residential with a much narrower buffer than a TDR project next to another residential project has.

So the Commissioners gave direction a couple of years ago, actually about two, three years ago, to delete the buffer provisions out of the Comprehensive Plan and then to take them out of the Code and so we're now taking them out of the Code and we're just requiring a standard Type 3 buffer. This is going to help probably facilitate even more use of the TDR programs. Right now some of the smaller projects are unable to use it and what happens, the reason Dave was asking whether you have to justify it in the planning division, will push people towards the TDR's in lieu of a Comp. Plan Amendment, but people end up coming in and saying, well, I have to provide this big buffer, so give me the density for free, and use the Comp. Plan Amendment process versus TDR. It's going to make it easier to do TDR's.

MR. WHITEFORD: On that note, too, before the meeting we were in my office and we were talking about, what do we lose, what do we gain by going to a standard buffer versus the asking for TDR as the standard buffer versus the calculation method that Aimee explained?

In some cases we've had projects that have required buffers as large as 50 feet. And

whether they were needed or not is -- I'd have to go back and look at those particular projects. But part of the problem we had was the zigzag. It was different along a property line, depending upon the density across the way, and that became very cumbersome and complicated.

But by going to a standard buffer, just a flat out 20 feet Type 3 compatibility buffer, in some cases could be insufficient if there is a huge disparity in density. So one of the suggestions I'm going to make to you, is that, on page 38 under the buffer, Item 4 at the bottom -- it's actually page 15 of the handwritten pages, is include this language, the BCC may increase the width of the buffer based on the compatibility of surrounding land uses. And the reason why is to at least give the County some authority and put a petition or on notice -- these things are going to the Board of County Commissioners anyway. If we felt that the Code didn't address an issue, we could write a condition of approval saying we want a bigger buffer. But that's not always fair, to have somebody come in, look at the Code and they think they're going to get a 20-foot buffer then three months later we slap them with a 30-foot buffer because we didn't think it was provided sufficient separation or mitigate the impact sufficiently. But at least if this language is in the Code, then a petitioner would be aware of that possibility and it wouldn't take them by surprise, and hopefully address the issue ahead of time for us.

MS. STARACE: That's a good idea. Because when you have industrial next to residential, you are going to want different size buffers for, you know --

MR. WHITEFORD: And that's one case where we would recommend a larger buffer. But I just don't like to do that when it's been codified the buffer's going to be X, Y, Z and then all of a sudden we're writing conditions to require something bigger, because that was one of the things we said we wouldn't do.

Hopefully this new Code is going to cut back on the number of conditions of approval we have to write for projects. But this is just one of those cases where the current practice at times has required a very large buffer, that just by making a standard buffer to apply in all cases could be less than half what the current Code currently requires and that may not be sufficient enough.

MS. STARACE: We can't vote, but that's a good idea.

MR. WHITEFORD: That will be brought to your attention when it comes back.

MS. STARACE: Especially if you do a mixed-use.

CHAIRMAN BLACKMAN: Anything else?

MS. CARLSON: That's it on that.

(ULDC Amendments - Article 3)

MS. CARLSON: The last item was where we sort of started off in our general discussion about it, just give you the end result after we do the consolidation of the zoning districts and go to the pyramid approach, what ends up happening.

MR. CARPENTER: What page are we looking at now?

MS. CARLSON: The end of your packet.

Anybody have any questions on that?

MS. DURANDO: Seminole, Pratt, Whitney, is there an overlay zone there?

MS. CARLSON: Research and technology overlay is what we call it.

MR. WHITEFORD: RTO.

MS. DURANDO: RTO.

MR. WHITEFORD: And so you don't have to do a bunch of your own research, the zoning districts that fell off the apple cart were things such as SA, Special Agriculture, you know, combining that with other agricultural zoning districts; something on a zoning district called, CRS, Country Residential, which is a zoning district that's allowed in RR-10, never been utilized; we were attempting to consolidate the Commercial Low Office with Commercial High Office. As you see on my chart, you see a CO, but that didn't fly with the Board of County Commissioners. We were trying to cut those two land use categories. So we're probably going to have to break that back up and still maintain that CLO and a CHO zoning.

RTS and RTU, those two zoning districts, which I believe were created when the ULDC got adopted, but there are just shades of gray of differences between them.

MS. CARLSON: RSCR.

MR. WHITEFORD: The Rule of Services Zoning District that allowed quasi commercial type uses within certain intersections out in the rural tier. And only a couple of intersections actually qualified for that zoning. And it wasn't quite commercial, but it was an attempt to try and get maybe some of those community type uses located at special intersections, lawn maintenance services and some of these other things. I think the decision now has been to require those types of uses, if they were to crop up out there, to actually get a commercial land use designation versus trying to come in under the radar under RSCR.

MS. DURANDO: I have a question, because it's going to come up pretty quick now. It's already been under a very hot discussion among certain people in this County. What would you call a solid waste site that involved 30, 40 acre transfer in the Ag. Reserve? How is that permitted in the Ag. Reserve, or would it need a Comp. Plan change? It's really what I would call industrial.

MR. WHITEFORD: If it's run by the Solid Waste Authority, we would zone it PO more than likely. PO is consistent with all land use categories, including the AGR, the Ag. Reserve. And basically all of the Solid Waster Authority's properties are zoned PO. It's considered a government service.

MS. DURANDO: And they would be allowed in the Ag. Reserve without a Comp. Plan change?

MS. CARLSON: That's something they're looking at, whether it would be required or not. They're actually looking into that issue. I don't think there's been a final determination yet.

MS. DURANDO: You know probably what I'm thinking of.

MR. WHITEFORD: It's actually not necessarily a bad thing. It might be cleaner than what's there. You're talking about the Ag. America, whatever it is, the chipping, mulching operation behind the post office?

MS. DURANDO: I'm sure you know what it looks like. You think that is a good thing to have next to a reservoir, with hazardous waste?

MR. WHITEFORD: No. I'm thinking the one off of Donald Ross Road. That's a beautiful facility.

MS. DURANDO: It's going to be like the one on Fairgrounds Road, only bigger. I got that straight from the horse's mouth. That's what it's going to be.

