

DECEMBER 4, 1989

The Board of County Commissioners, Manatee County, Florida, met in SPECIAL SESSION in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Monday, December 4, 1989, at 9:10 a.m.

MANATEE COUNTY

Present were Commissioners:

Edward W. Chance, Vice-Chairman
Kathy A. Snell, Chairman Pro Tem
Kent G. Chetlain
Maxine M. Hooper

Absent was: Patricia M. Glass, Chairman

Also present were:

Tedd N. Williams, Chief Assistant County Attorney
Susan G. French, Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court

CITY OF BRADENTON

Present were City Council members:

Bill Evers, Mayor
Fred Runnells
James Barfield
Sandra Rahn
Joyce Fulford
Ellie Perkins

Also present was:

William Lisch, Attorney, for the City of Bradenton

Representatives of the various news media were present.

The meeting was called to order by Vice-Chairman Chance.

CORTEZ ROAD ANNEXATION

Lawsuit: Manatee County v. City of Bradenton

Tedd N. Williams, Chief Assistant County Attorney, stated that pursuant to court order and Florida Statutes, Chapter 164, the purpose of the meeting is to address pending litigation, Manatee County v. City of Bradenton, which involves the annexation of a parcel of land into the City of Bradenton located at the southwest quadrant of Cortez Road and 51st Street West.

He advised that Florida Statutes, Chapter 164, requires that prior to a local government suing another local government, there is to be a joint meeting in an attempt to resolve the issues. He noted however, that another requirement (inconsistent with Chapter 164) imposed under Chapter 171, states that if one entity chooses to challenge an annexation determination, it must do so within 30 days of the date of the annexation ordinance.

As to the question of whether the meeting should be held before or during litigation proceedings, it was resolved by the court that the two jurisdictions meet at this time. Additionally, because this meeting is in the nature of a settlement conference, Mr. Williams advised that anything said by either side is confidential and cannot be used as evidence in the court proceedings.

Mr. Williams addressed the two legal issues raised in this lawsuit:

1. Whether the annexation creates an illegal enclave - Chapter 171 states that an annexation is not allowed to create an enclave; the proposed annexation, if successful, would result in the creation of several "pipestem" enclaves (involving County/unincorporated land almost totally surrounded by City land).

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(Cont'd)

2. Annexation is being sought to avoid impact fees - Annexation being sought by the applicant to avoid County impact fees which results in an improper motive and furthermore, an illegal annexation. Case Law states that avoidance of impact fees is not a proper municipal purpose for an ordinance and any ordinance enacted for that purpose is illegal.

As a matter of law, the Attorney General's definition of an enclave is a country that is surrounded or almost surrounded by another country or jurisdiction. The County's argument is supported based upon the language "almost surrounded". A piece of unincorporated land that has only a very narrow pipestem-type of access to the rest of the unincorporated County is, in effect, an enclave which is inconsistent with the purpose and intent of Chapter 171.

William Lisch, City of Bradenton Attorney, stated the City's position is that no illegal enclave exists and that impact fees are not the reason for the annexation. He stated he had no recommendations for settlement of the dispute.

Discussion: Annexation contemplates radical increase in densities of an area (Cortez Road) already heavily impacted by growth; County density on parcel is 6 units/acre; City has PDP (Planned Development Project) zoning with maximum density of 16 units/acre; surrounding citizens concerned regarding increased zoning/density; growth should pay for itself through impact fees; maintaining County and City consistency/concurrency on developments; requirements of City Comprehensive Plan.

Inasmuch as both Attorneys have stated the position of their clients, and the issues noted for the proposed litigation cannot be amicably resolved between the two parties, James Barfield, City Council Member, recommended that litigation proceed.

Alan Prather, representing Aster Investments, stated his clients voluntary requested the annexation. He addressed differences between County and City Comprehensive Plan requirements and stated a portion of the parcel is within the City designated PDP which is similar to the County ROR land use classification. He addressed the distinctions in the zoning.

Discussion: Distinction of where the multiple services (sewer lines, law enforcement) between the County and City start, end or blend; concern of adjacent County property owners regarding property values in relation to the subject parcel; developer's reasons for choosing to annex into the City.

MEETING ADJOURNED

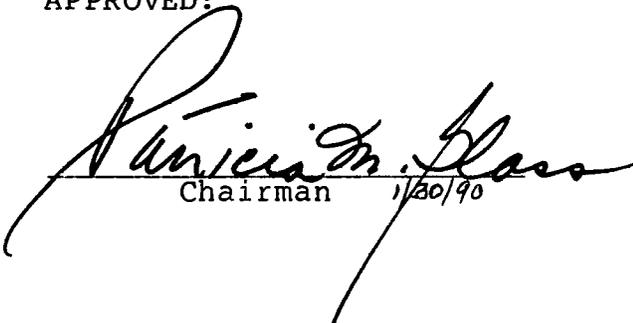
There being no further business, the meeting was adjourned.

Attest:

APPROVED:



 Clerk
 Adj: 9:50 a.m.
 1/30/90



 Chairman 1/30/90