



Council Minutes

February 13, 2006
10:00 a.m.

REPRESENTATIVES PRESENT

Chair, Mr. Robert Kersteen, Gubernatorial Appointee, Pinellas County
Vice Chair, Ms. Jill Collins, Gubernatorial Appointee, Hillsborough County
Secretary/Treasurer, Commissioner Scott Black, City of Dade City
Mr. Richard Albrecht, Gubernatorial Appointee, Pasco County
Councilwoman Mary Alvarez, City of Tampa
Mayor Larry Bustle, City of Palmetto
Commissioner Bill Dodson, City of Plant City
Mr. Julian Garcia, Jr., Gubernatorial Appointee, Hillsborough County
Mr. Housh Ghovae, Gubernatorial Appointee, Pinellas County
Reverend James T. Golden, City of Bradenton
Mr. Michael Guju, Gubernatorial Appointee, Pinellas County
Mr. Kenneth Hoyt, Hillsborough County Gubernatorial Appointee
Ms. Angeleah Kinsler, Hillsborough County Gubernatorial Appointee
Commissioner Deborah Kynes, City of Dunedin
Deputy Mayor Bob Langford, City of New Port Richey
Councilmember Janice Miller, City of Oldsmar
Commissioner Peter Nehr, City of Tarpon Springs
Councilwoman Carlen Petersen, City of Clearwater
Vice Mayor John Phillips, City of Gulfport
Commissioner Mark Sharpe, Hillsborough County
Commissioner Steve Simon, Pasco County
Ms. Barbara Sheen Todd, Gubernatorial Appointee, Pinellas County
Mr. Philip Waller, Gubernatorial Appointee, Hillsborough County
Commissioner Kenneth Welch, Pinellas County
Councilman Earnest Williams, City of St. Petersburg
Ms. Kathleen Wolf, Gubernatorial Appointee, Pasco County
Vice Mayor Keith Zayac, City of Safety Harbor
Gabor Farkasfalvy, Florida Department of Transportation, Alternate
Ms. Michelle Miller, Enterprise Florida

REPRESENTATIVES ABSENT

Commissioner Larry Crowley, City of South Pasadena
Commissioner Harriet Crozier, City of Largo
Mayor Ward Friszolowski, City of St. Pete Beach
Dr. Lois Gerber, Gubernatorial Appointee, Manatee County
Commissioner Ken Halloway, City of Temple Terrace
Mayor Mary Maloof, City of Treasure Island
Commissioner Bob Matthews, City of Seminole
Councilman Ed Taylor, City of Pinellas Park
Commissioner Jane von Hahmann, Manatee County
Ms. Janet Kovach, SWFWMD

Ms. Brenda Williams, Department of Environmental Protection

OTHERS PRESENT

John Healey, Planner, Hillsborough County

Shawn College, Executive Planner, Hillsborough Planning Commission

Kenn Ashly, Principal Planner, EHA, Inc.

Trisha Neasman, Planner, SWFWMD

Cynthia Tarapani, VP Planning, Florida Design Consultants

Elizabeth Abernethy, Planner, Wilson Miller

Joanne McClellan, Planning Liaison, SWFWMD

Charles Plancon, Citizen

Everett Rice, State Representative, District 54

STAFF PRESENT

Mr. Manny Pumariega, Executive Director

Mr. Roger Tucker, Legal Counsel

Mr. Avera Wynne, Planning Director

Ms. Suzanne Cooper, Principal Planner

Ms. Lori Denman, Recording Secretary

Mr. Marshall Flynn, Principal Planner

Mr. John Jacobsen, Accounting Manager

Ms. Betti Johnson, Principal Planner

Ms. Wren Krahl, Manager of Admin./Public Information

Mr. Bill Lofgren, Principal Planner

Mr. John Meyer, Principal Planner

Mr. Greg Miller, Planner

Mr. Patrick O'Neil, Senior Planner

Mr. Charles Rogers, Planner

Mr. Gerald Smelt, Principal Planner

Mr. Michael Spina, Senior Planner

Ms. Jessica White, Senior Planner

Call to Order - Chairman Kersteen

The regular meeting of the Tampa Bay Regional Planning Council was called to order by Chairman Kersteen on February 13, 2006 at 10:05 a.m.

The Invocation was given by Mr. Michael Guju, followed by the pledge of allegiance.

Roll Call - Recording Secretary

A quorum was present. No voting conflicts were filed.

Recognitions:

Chairman Kersteen gave special recognition to Vice Mayor Keith Zayac, City of Safety Harbor, who has served on the Council since 1999. Vice Mayor Zayac has decided not to run for re-election and this would be his last meeting. Chairman Kersteen presented him a plaque as a symbol of gratitude for his dedicated service, and a TBRPC pen.

Vice Mayor Zayac stated it was a hard decision to leave his commission seat, as well as the Council. He has been blessed over the years with a flourishing business and two children who require more of his time. After seven years he decided to take a break from public office. Vice Mayor Zayac thanked Council and said he enjoyed viewing things from a regional perspective.

Chairman Kersteen provided special recognition to a dedicated employee for over 20 years, Gerald Smelt, TBRPC Principal Planner. His knowledge and expertise will be sorely missed. Mr. Smelt has accepted a position as the Planning Manager for the City of Norfolk, Virginia and February 21st will be his last day. Chairman Kersteen presented Mr. Smelt with a framed collection of local historical landmarks with the inscription "Presented to Gerald Smelt for dedicated service to the Tampa Bay Regional Planning Council - February 13th, 2006."

Mr. Smelt thanked Council for the framed prints and stated it has been a pleasure working with the Council for 23 years. He has seen many changes over the years and is pleased we now have a region that thinks regionally.

1. **Approval of Minutes** - Secretary/Treasurer Black
The minutes from the January 9, 2006 meeting were approved with a correction on page 7, clarifying Michael Davis' meeting on January 10th. (Collins/Black)
2. **Budget Committee** -Secretary/Treasurer Black
The Financial Report for the period ending 12/31/05 was approved. (Black/Alvarez)
3. **Consent Agenda** - Chairman Kersteen
The consent agenda was approved. (Hoyt/Collins)
4. **Item(s) Removed from Consent Agenda and Addendum Item(s)**
None
5. **Review Item(s) or Any Other Item(s) for Discussion**
6. **A. Kelo vs. New London Eminent Domain Supreme Court Decision**
Mr. Mike Sittig, Executive Director of the Florida League of Cities provided an overview of the recent Kelo vs. New London Eminent Domain Supreme Court decision and how local governments should prepare for the reaction from that decision.

When Scott Black first asked me to come and make this presentation I said no because it's as complicated as it is controversial and you really ought to have a lawyer that is knowledgeable, however, he talked me into it. You are not getting the legal perspective, you are going to get the layman's, the lobbyist's perspective. I represent the 410 cities in Florida and will do the best job I can.

When does the public benefit trump the private right? That's what the New London case was all about and that's what is going on in Florida. There is a lot of debate in the legislature and the courts have given a lot of rope to elected officials to determine what a public purpose is. Generally, if the

purpose of what you are doing substantially benefits the public versus substantially benefitting a private individual, or a private party, then it probably serves a public purpose.

Can the government take property for the sole purpose of giving it to another person? In my opinion, in Florida, the answer is no. As recently as 20 years ago, the state Supreme Court didn't allow Hamilton County to condemn a piece of property to give to the state of Florida for the purpose of building a prison. They said you cannot condemn property for the sole purpose of giving it to someone else. To quote from a 1980 Supreme Court decision that affected the City of Miami Beach, "*this court has declared many times that a public body may not use its governmental authority and its public funds to acquire lands whether by purchase or eminent domain where the only purpose of the acquisition is to make the properties available for private uses.*" Can a city pay \$1 million for a piece of property that is appraised at \$50,000? Probably not. It doesn't serve a public purpose. The public benefit is not outweighed by the benefit to the private entity.

It's not unusual for a property owner to get 1.5 to 3 times the value of their property in Florida, and just like in the New London case, the vast majority of people were happy to have their property condemned because the amount of monies they received were substantially higher than the appraised value. Can a railroad condemn property for the purposes of building a railroad track? The courts have said yes. For over 125 years the courts have said the public benefit of transportation being available to the public outweighs the private benefit that the railroad generates by being able to make money by condemning that railroad. Case law is almost identical for the electric and power companies that condemn property for the purposes of building poles to string their lines on. The courts have said the public benefit of bringing electricity to everybody outweighs the incidental private benefit that goes to those electric companies. In the 1920s the US Supreme Court said that you could *partially take*, we call it zoning. They basically said it's in the public's best interest for a body piercing business not to be built in a single family residential subdivision.

In the 1950s the US Supreme Court said that the City of Washington, DC could take property for the purposes of eliminating slums. They said there will be a private benefit to the future landowners of this property. In that case the court said it upheld the condemnation for purposes of facilitating redevelopment blighted areas even when the redevelopment plan involved transfer of land to private property ownership. Lawyers are split over whether what happened in New London could happen in Florida. I think there is a very good argument on both sides. I think because of the Hamilton County case and the Miami Beach case you could make a good argument that what happened in New London could never happen here, but because of the home-rule powers municipalities have you could also make a good argument that perhaps what happened in New London could happen here.

What happened in New London that is different from what I have talked about? In New London you had an economically distressed city as declared by the legislature of the state of Connecticut. They had a gradually deteriorating population which was smaller than it had been in 1920. The jobless rate was double the statewide average. In 1996 problems continued to spiral downward because the U.S. Navy closed their facility, and in 1997 Susette Kelo bought a house in this distressed area and renovated it. In 1998 Pfizer Pharmaceutical announced they were going to build a \$300 million research facility in downtown New London. Connecticut has a state law that says

the city can condemn property for the purposes of economic development. The people of New London, the elected officials of New London, the business and community leaders of New London, and every court, and the legislature were behind what New London was proposing to do, to take half of the old Navy base and attempt to acquire another 90 acres for the purposes of the economic horse that Pfizer was bringing to their community. To create jobs. To build parks and to try and take advantage of the decision that Pfizer had made. The U. S. Supreme Court, on a 5-4 vote, said it served a public benefit and outweighed the right of Susette Kelo and a couple of other plaintiffs. Out of the 90 acres, the owners of 88 ½ acres willingly sold, the others took the issue all the way to the Supreme Court and it took the city of New London 7 years to eventually acquire the property from a process that began in 1988 to the U.S. Supreme Court rule in 2005. Even with all the protections built in, all the politicians and all the courts from New London to the U. S. Supreme Court ruled in favor of the city of New London, but they did not let them take the property until all of the appeals could be exhausted.

Could this happen in Florida? I think there is a fair debate on both sides. The issue is – does the right of that one person trump the public benefit rights of the people of New London? How does that affect Florida and what is going on in Tallahassee?

Representative Rice has a constitutional amendment to make sure that what happened in New London can't happen in Florida. I believe Senator Jones has a companion in the Senate. What Tallahassee is most concerned about is, will the pendulum swing back too far in the other direction? For example, in a redevelopment, a city through a CRA (Community Redevelopment Agency), may take property for the purposes of redevelopment if the area has been determined to be slum and blight. There is legitimate debate about whether the definition that is currently in the statute is good enough to protect the private property rights people have in the area of slum and blight. There are a lot of people in Tallahassee working to revisit the definition of slum and blight. The Florida League of Cities hope they won't make it difficult to redevelop downtown areas. One of the proposals is that a government ought not to be able to look at an entire area, but look at it parcel by parcel. So, if the area in general is a slum but you have a case similar to Susette Kelo who has purchased a piece of property and renovated it, then that particular parcel would not be considered to be blighted, distressed or a slum and you may not be able to take that property. Those are examples of debates taking place.

Redevelopment and economic development may differ. Legislators intend to draw that line and it will be a difficult thing to do without ending up with some unintended consequence. Do you think that the 9th Ward in New Orleans are going to be able to rebuild that city without having the power of eminent domain? Do you think we would ever have an Olympics if you couldn't go into an area of this state and have the threat of eminent domain? Mr. Sittig said he has a friend in Leon County that is having a piece of property condemned for the purposes of a road to go into the back of a Walmart and he is obtaining a legal team to argue that the purpose of this road is for economic development. Have you ever seen the government take property where there wasn't some economic development advantage that came to somebody whether it is an intersection on an Interstate, a 4 lane downtown road, or the building of a county courthouse? So to draw that line about what is economic development, and to try to make it so that the public benefit can still be treated fairly, will be very difficult to do.

Government has a lot of control over property rights. The government currently has the power to affect the value of private property. The government can make you put in sprinkler systems, remove junk cars, mow the lawn and if they don't, government can have it mowed and send a bill. If the bill isn't paid the government can put a lien on the property. Government can force them to hook into waste water. Government can force them to close their well and hook into a centralized water system. Government can say you can't build that tattoo parlor in a single family residential area, can't cut down a tree, tax their property. Government can annex property and can destroy their citrus trees if they have canker. What's the difference between that and what happened to Susette Kelo? In Florida there is a difference. The 5th amendment says *nor shall private property be taken without just compensation*" which means you can take the property if you pay just compensation. Who determines the value? Most government officials hate to condemn property and that's why they offer the most amount of money that the law will allow within the definition of public purpose so they don't have to condemn. Once in a while there is that hold-out and it's in the public's interest for that property to be taken. If they hold out until the end, a 12 person jury will determine the value in the state of Florida.

We are going to ask the legislature to be careful. We respect what happened in New London and in many ways I think we would have been better off if the city of New London would have lost. It really wouldn't have changed the law that much in Florida and we wouldn't have to go through this public debate that is currently taking place.

In closing, Mr. Sittig stated that if the Susette Kelo case occurred in Florida she would probably still own her property, even though the arguments are similar in the redevelopment area, especially if the legislature decides to go parcel by parcel on the definition of slum and blight. He would argue to let the elected officials in Tallahassee and the local officials decide what is a public benefit and when a public benefit outweighs that private right.

B. House Joint Resolution 31

Representative Rice stated his take on the Kelo decision is different from Mr. Sittig's and suggested everyone read the Kelo decision. The first court that cited the Kelo decision after it was issued on June 26, 2005 was a Circuit Court in Daytona Beach regarding redevelopment of the boardwalk area of Daytona Beach. The property owner lost to the city and in the judge's opinion ruling they cited the Kelo case. Four out of five justices say that the public use requirement of the 5th amendment of the constitution, public use means "economic development." The US Supreme Court approved the city of New London Connecticut taking Ms. Kelo's property to turn over to a developer for the sole purpose of using it to a higher value. Maybe incidentally it might create jobs, and maybe it might reduce crime. It is the first time that the US Supreme Court has ruled directly on that point. There were a couple of similar cases, one in 1954 and one in 1984, but it is the first time the US Supreme Court ruled on the public use requirement for eminent domain taking. The US Supreme Court says the 5th amendment does not protect people from having their property taken by government at any level for the purpose of economic development. That can be new development or redevelopment. It's solely to increase the tax value of the land. That's what that court decision says. It was a very sharply divided opinion. I think there was more ink used on the dissent and more common sense used on the dissent than there was on the majority. In fact, I venture to say under the court that we have today that decision certainly would have gone the other way and we wouldn't be here talking about this.

I read the Kelo decision and it was said across this state, and from some pretty high levels, that this couldn't happen in Florida. People's property rights are protected in Florida and the Kelo type taking cannot occur here. The only difference between Connecticut law on eminent domain and Florida law is that in Florida the jurisdiction has to declare the land blighted before it can take it for economic reasons. Under the guise of blight, Florida cities and counties have been taking people's land, just like in Kelo's case, for 2 decades.

The legislature, at the urging of city planners and development specialists diluted the definition of blight to the point where it applies to any piece of land in this state. Pull Statute 166 and read it. There are 14 elements of blight in the definition of blight. Only 2 of which the city or county has to allege to make a declaration of blight. It's happening all over this state. The definition of blight, according to the Florida Statute, is nothing like the traditional thoughts of slum.

My proposal to amend the Constitution is not in derogation of CRAs. Somehow the Select Committee has gotten bogged down with eminent domain being the same as CRAs. I don't think so, I think the CRAs have a lot of good utility and serve a good purpose without the power of eminent domain. The arguments I receive are that cities need the power of eminent domain to remove slums. I say they don't. Traditional code enforcement is how you take care of slums. If you look across this state you will find that Florida is the worst offender for the government to take your land and give it to another party for the sole purpose of enhancing the economics, the tax base. I submit that this has been happening in Florida more often than in any other state in the nation, including Connecticut. I think it is wrong.

My position might be in derogation of the cities and counties power to govern and make a nice place for people to live. You take Riviera Beach for example - which I have labeled a poster child of eminent domain abuse in this nation. Those people that are being displaced by the CRAs plan to take thousands of parcels of land are not going to be any better off after the development is finished. Not a single one of them, no matter how much the city gives them for their land, is going to be able to live in any of those condominiums. They couldn't buy them, let alone pay the taxes on them. When you hear the city official say this is going to be good for everybody, who is it going to be good for? It's going to be good for the tax base of the city of Riviera Beach, no doubt about that. It's going to be good for the developers who build the condos and the yacht clubs and the upscale shops. But it is not going to be good for those people that are being displaced.

Florida's constitution is much broader than the U.S. Constitution. The U.S. Constitution says it has to be for public use. The Florida Constitution says it has to be for public purpose. We are in this position today because of the legislature. People say, let the legislature fix it. Let them tighten up the definition of blight. That's fine, we need that, but I say that property owners in this state need to change the constitution so that we go back to the traditional meaning of public use which means that whatever the government takes the property for, the public is going to be able to use it. A road, transportation or utility corridor, city hall, police station, courthouse, jail, etc. With the proposal I have no city hall, no county commission, no CRA and no legislature or court will be able to interpret our law to allow the Kelo type taking to continue to occur in this state.

There is no doubt in my mind that the Kelo decision is going to be the catalyst for our legislature typing up the statute of blight and redevelopment. Whether my proposal gets through or not, you all that are in the business of redevelopment in the cities and counties need to be prepared because the legislature is going to put a stop to it. There is no doubt in my mind that they have already taken the position that they are not going to allow eminent domain to be used for economic development. I don't think that term needs to be defined. All you have to do is read the cases. It's been defined plenty of times.

The other thing they are going to do is change the rules of review. In the Kelo case, and in the Florida cases particularly the appeal case from Daytona Beach, the courts have said they will not second guess the judgement of cities. In other words, all the city has to do is allege that there is blight, and allege that the tax base will be increased, and suggest that crime will be reduced, and suggest jobs will appear. They don't have to prove any of it. The court will not second guess the legislative wisdom of the City Council, County Commission, CRA or the state legislature. They are going to change that. If the legislature does not take economic development completely away, or the power of eminent domain completely from CRAs, they are going to tighten the rules up so cities won't be able to do what they are doing to Riviera Beach and Daytona Beach and Hollywood and Tampa.

My proposal is simple. There are several ways to amend the Florida Constitution. One of them is that the legislature can put the question on the ballot so the people can have the right to vote on whether or not they want to amend the constitution. That is what I am proposing. I don't think it is complicated. I don't think it will be the end of cities and counties' ability to govern.

In closing Representative Rice suggested reading the Kelo decision which basically says that it is alright for the government to take one person's land and sell it to another person, a private person. Compensation is not the issue, but to take someone's land and turn it over to a developer for the sole purpose of increasing the tax base – that's exactly what is happening in Florida under the guise of removal of blight. When you read those elements of blight in the statute you will find that most of those conditions are the fault of the jurisdiction and not the property owner.

Questions and Comments:

Council Member Miller: Are you proposing to change the requirements for a CRA?

Representative Rice: No. I'm glad you asked that. Nothing I am doing is in derogation to the CRA except that if my proposal passes, CRAs will not have the handy use of eminent domain. I think CRAs serve a good purpose and I'm all for development, I'm just against taking people's land and forcing them to sell.

Council Member Miller: This won't change vacant land? Oldsmar didn't have a downtown. We have a lot of vacant land. That's how we got blighted.

Representative Rice: That's just an example of abuse in the definition of blight. It applies to vacant land.

Councilwoman Alvarez: We had a case recently where we used the power of eminent domain but we allowed the homesteaded properties to opt out.

Representative Rice: My proposal does not distinguish between homesteaded land, business property, farm land or vacant land. It's the ownership of the property that needs to be protected, no matter how the owner uses it, unless they use it in dereliction of public health.

Councilwoman Alvarez: It was in a CRA to be used for economic development.

Representative Rice: A city official stated that under the Kelo decision they will now be able to take vacant land in the city and do something with it because it needs to be developed. How is a piece of vacant land hurting anybody? In this case, emboldened by the Kelo decision, this city official wants to take that land and develop it because he wants the taxes from the land. But what about the owner who doesn't want to do anything with it except let it sit and pay the taxes on it?

Mr. Garcia: How would it affect the situations where some municipalities have people who aren't abiding by the codes and their homes are taken before the enforcement board, fines are levied on the home, and the owner neither fixes the home or pays the levy. A lot of cities are condemning those properties, good properties for affordable housing in many cases.

Representative Rice: That is a different matter. If the developer of the land doesn't pay any taxes or maintain it in a healthy condition the city can use whatever codes they have to enforce it and ultimately take it from them for not paying the levies or fines. I'm not talking about that.

I am prepared to amend my proposal to the extent that it will not prohibit eminent domain takings if they have an incidental economic benefit because every taking is going to have some benefit.

Mr. Sittig: When Representative Rice talks about some of the abuses because of the definition of slum and blight, he's right. There have been people who have not acted responsibly. The legislature is going to try to figure out a way to deal with that without stopping the growth rate.

Representative Rice: The key case to watch is the Daytona Beach case and CRA. The party is Captain Darrell Hunter. He lost at trial right after the Kelo decision and his lawyers tell me they are going to appeal. That will be the first case right on point. What is going to happen though is that the legislature is going to change the law by the time that case gets to the Florida Supreme Court. If I have my say the people will vote to change the constitution so it cannot happen.

Mr. Kersteen : In downtown areas in many large cities, in the past it was said that if you won't sell we will build around you. You may have noticed seeing a one-story house and a 50 story office building surrounding it. Is that an option that cities can use if they have a hold-out?

Representative Rice: I don't know but we know that has happened all over. It happened in New York City. My question to that scenario is, what's wrong with that? The biggest opponent and the outspoken person leading the group against the Riviera Beach takings is a lady named Martha Babson and she just sold, but she didn't sell to the CRA or the city. She sold for an amount 5-10% over what the property is worth. She was apologetic to me and I told her not to be. What she did proves what I've been saying and that is that the marketplace will take care of the problem and you don't need the City Council being a super real estate agent these days. What she did proves that the economics of the marketplace will take care of these issues.

Mr. Hoyt: The Supreme Court usually finds on very, very narrow grounds. They tend not to make very broad decisions. It seemed like the Connecticut constitution and it's OK of the takings for redevelopment, or for economic development in general, was the real foundation on which the court made its decision. Your position seems to be a little different that the court had other things in mind. I don't know if you wanted to address that.

Representative Rice: First off, the Connecticut constitution either has a public use or a public purpose requirement. The case came up through the state courts and the Connecticut Supreme Court ruled that public use or public purpose means economic development. The U.S. Supreme Court said the U.S. Constitution means the same thing. The U.S. Constitution and every state constitution has a government use or a government purpose requirement. The courts in that case said public use is public purpose, public purpose is public use and public purpose means economic development.

Mr. Hoyt: If I come in and I take the worse blighted area in the community, and I get somebody like the Scripts Howard Institute that wants to come in and put up a billion dollar campus to development next generation drugs, and hire 30,000 people making \$80,000 a year isn't that a public purpose?

Representative Rice: The Supreme Court said it was.

Mr. Hoyt: I think that if you put those kinds of deals out as a referendum in most communities they would pass. Maybe the legislature needs to think about what the people would decide if they were confronted with these things. Instead of fixing some grand problem, maybe get a little more rigorous in the definitions you suggested very well. The areas where the current law is are

probably being abused because of the way the definitions have been undercut. If those things were cleaned up you might solve most of the problem as far as the state of Florida.

Representative Rice: Right. You would solve that with legislation, and that's what is going to happen. They are going to change the definition of blight and if they don't remove the power of eminent domain from CRAs completely they will give it to CRAs only to remove true slum. All I'm saying is that we need this in the constitution. It's a statutory issue because we need to get it done quickly.

I sum it up like this, if we have a government that takes property from citizen "A" and turns it over to citizen "B" because that will increase the tax value, and that's good for everybody, what does that sound like? That's a huge step from our capitalist society into socialism. I don't think we need it and I don't think the people are ready for it.

Commissioner Simon: We find ourselves on different ends of this discussion. By definition is exceedingly complicated. By definition it can't be done in a move or two of absolutes. It's going to be a number of moves, all of which are going to be less than absolute. By way of example, you said slums can be cured by code enforcement. While that may be true in a certain arena where you have landlords who have chosen to squeeze the market of rental income without management expense and operational costs and things like that, that's correct. But without a very aggressive level of declaration of blight, followed right to fruition of demolition, it wouldn't fix the area. The whole area dies and you are asking us to defend the right of that person. That is not a complicated situation to see quickly that the overview is very complicated and I don't think that the legislation is going to be simple at all. I think the Scripts or the Pfizers or anyone of those large economic things is just one example of many examples that could be brought up. I think it's just a little more complicated than this so we disagree on the intensity of your position.

Representative Rice: Well I say if the owner of a piece of land is violating the law, take it away from him.

Commissioner Simon: Following that line of thought, there wouldn't be a straight interstate in the country. Somebody would be out there saying "I didn't do anything wrong." Why are you building it where I'm living. You can't take my land.

Representative Rice: Nobody takes issue with taking land to build a road. My proposal would not stop that. Everybody agrees that using eminent domain to take somebody's property to build a road is a fair use of eminent domain.

Commissioner Simon: When you take the road and you take any other action of taking or condemnation and you boil it down to its bare essence, it's not about roads or

anything else. It's about the benefit of the many at the inconvenience of the few. That's what the whole process is about.

Representative Rice: You have to ask the question, are we going to have a government that can take land from citizen "A" and give it to citizen "B"?

Commissioner Simon: We have a government that can take citizen "A" and put him in jail if he does something. I can zone your property, I can restrict your property, and I agree with you in a lot of other points. CRAs were used in my county (Pasco), they told us that the whole area was blighted. We said what do you mean? Which area? They said the city is blighted and I said don't fight it. It's good for the city and the city is part of the county and that's the way they are supposed to do things. Was it a little manipulation as far as the definition of the word blight? Yes. But so is saying taking citizen "A"'s property for citizen "B." It's a lot more than that.

Representative Rice: Well, it's OK to take land from citizen "A" if it's for a public highway. It's not alright to me to take land from citizen "A" and give it to a developer and increase the tax. That's the difference.

Commissioner Simon: You came from a county (Pinellas) that had economic incentives for all sorts of businesses to be brought in. If your county had an ordinance for all those economic incentives, somebody must have thought business was such a high priority item that it had to be ordinated and the criteria of the methodology had to be reported. It is no different than what they are talking about here.

Representative Rice: I may be wrong, but I don't think Pinellas County has ever used a threat of eminent domain for economic development. They've used it a lot to build roads, sewage treatment plants, and things like that. But I don't think Pinellas has taken property and given it to a developer.

Reverend Golden: I agree with you. I think it is very simple. I refuse to believe a man would pay ten times the value of a piece of property to a lady in Riviera Beach if he didn't know he was going to make money off of it. That's what is going to happen. It's about people who are unable to afford quality of life that some folks who have large amounts of money can afford. Do we need it that way or do you have some idea as to how we can change this formula that has been working for some of us for 200+ years? That lady that made that money, she is going to do alright in Riviera Beach, but her neighbors are going to be displaced and will have no place to go. They certainly won't be able to go back into this area because the development will price them out. No checks, no balances whatsoever, of even considering the quality of life for these people. Do you have any suggestions or recommendations?

Representative Rice: First of all, I'm not suggesting that we try and change what we have been

doing for 200 years. What I'm suggesting is that we maintain the status quo of about 20 years ago and make sure that we define the uses of eminent domain to be public uses and not private uses. The lady in Riviera Beach paid \$35,000 for her house a few years ago and supposedly she was given \$732,000 and she is claiming that he bought up the whole street. I don't know what is going on there because he is not the master developer.

Reverend Golden: The Mayor of Riviera Beach and I were together a couple of weeks ago, talking about this same scenario. He is supportive of eminent domain/economic development. And the folks who live in slum and blight know exactly what that is. The island communities where we have some of these CRAs are not slum and blight communities, but the people that declare them to be so and set up the CRAs are the same people that are now saying we don't want CRAs to have eminent domain in the areas to do the things that they were originally set up to do. That is, eliminate slum and blight.

Representative Rice: Displace it. Not eliminate it. And I say displace it because if you sit and look at what they are planning on doing in Riviera Beach, I don't see any affordable housing for those people that are being displaced.

Reverend Golden: That's what is so problematic because I believe that you believe in what you are saying. You want to maintain the status quo and keep things just like they are.

Representative Rice: I just want to make sure that we have the right definition of public use and the eminent domain protection in the constitution that we, for over 200 years, thought it meant.

Ms. Todd: I think that Mr. Sittig summed it up. It's going to be a complicated issue. I for one appreciate this discussion, I think it has given us a broader perspective. I know we need to move on because we have a 12 noon adjournment. I think there are a lot of issues and would hope that both parties would look at the concerns you have heard today. I think the affordable housing issue is not directly, but indirectly related because we do know that when there is redevelopment there are those kinds of issues. I personally would like to thank both of you for being here and for giving us the opportunity to get a broader perspective of what is going on. We would encourage the communication between all parties so that those issues you heard today can be addressed.

Mr. Sittig: I would like to say one thing. Regardless of the speeches that were just made by myself and Representative Rice, what he is saying - I want you to know I'm not sure that we would oppose. He is saying we shouldn't have the right of eminent domain for the sole purpose of economic development. We would not oppose that. He says, I would even amend my proposal to say that

if there was an incidental economic development benefit like the example of the road going to the back of the Walmart, that he would amend his proposal to do that. Despite our differences and our perspectives on how we approach this, with a little luck we will have this kind of debate in Tallahassee and we will come out with something that everybody can live with.

Commissioner Black: In closing I would like to say that it is expected of us, as public officials, and I think we as private citizens expect this as well - anytime there is debate, anytime there is a dialogue, anytime legislation is passed we want this to be done in a rational mode and not an emotional one. What concerns me is that we are riding a wave of emotion at this point and I think sometimes it is good to sit back and cool off and think a little more clearly.

Reverend Golden: Many of you sitting here are not enjoying the fruits of the labors of your fathers, mothers, grandparents and the homes that you grew up in. Many of the people that you are talking about in those slum and blighted areas only have those ratty little houses and if they are going to have a benefit of economic development in their lives most likely it will come from the intervention and the oversight of government eminent domain capacity. What we need, and I agree wholeheartedly, is some sort of framework around the people that are most impacted in those slum and blight areas as participants in this new wave of economic development. I keep hearing talk about buying out people, where is the possibility that I heard Secretary Thaddus Cohen talk about - where is the possibility of participation? I have the house, I have the land, you have the development. Let me be a shareholder in your project. I know that the economic lessons of this country can be made available to them the same way it was made available to a lot of other people.

Chairman Kersteen: Hopefully this discussion will bring us closer to an agreement. Chairman Kersteen thanked Representative Rice and Mr. Sittig for their participation.

Councilman Williams: Will we have further debate on this issue so that we can take a position as this legislation goes through? We need to take a position on this. Some of the issues that were discussed need to be feathered out and I think that it is not as simple as what was said. It is a very complicated issue. I believe there is some unintended consequence to what they are trying to do and I'm concerned at over reaction. I would like to see this body have further discussions on this issue because we have to take a position as the legislature flows through.

Chairman Kersteen: Do you want to turn this over to the Legislative Committee?

Councilman Williams: I think the body itself needs to discuss this issue rather than just the Legislative Committee. I think you have some very good viewpoints and perspectives from the entire body.

Commissioner Kynes: It will come back to the whole body but the proper process is that it will go through the Legislative Committee and then come back for your approval or disapproval.

Councilman Williams: There are some people here who may have suggestions. There are certain issues that everybody should be involved with.

Mr. Hoyt: Mr. Chairman, I move that the body refer this to the Legislative Committee with the instructions to come back to this Council at its next meeting with preliminary recommendations so that we are ready with our final recommendation in time for the actual session. (Hoyt/Golden)

Councilman Williams: That's fine, but I want input from folks that aren't necessarily on the Legislative Committee.

Chairman Kersteen: We will invite everybody to this meeting.

Reverend Golden: Councilman Williams wants to maximize participation so that when the recommendation does come forward we won't repeat discussions. To that end I'm wondering if it is possible to schedule a meeting in such a fashion that will have the maximum amount of participation.

Mr. Hoyt: Let's give notice to all members of the Council and make it clear that all are invited to attend.

Chairman Kersteen: The Legislative Committee will be meeting following the Council meeting. Those of you who wish to stay are welcomed.

Commissioner Simon: I wasn't trying to take a position. I will point this out, whatever discussions that we have may end up being premature depending upon the final language or second draft or third draft.....you will see entire different directions based on one or two words added or deleted from a sentence and it will be very important to have the latest position if the goal of this body is to take a position on the impending legislation. I would rather we look more at the decision itself rather than the proposed legislation which I think is more of a premature reaction to the Kelo decision.

Reverend Golden: Any affect we would have is in the formulation of the language and in our position of where we stand.

Commissioner Simon: I'm dealing with benefit the few and inconvenience the many and that's not a good thing. I'm afraid that the reaction that Representative Rice was talking about is going to stop it cold and put me back to buying fruit stands for \$1.5 million.

Reverend Golden: But that's only if that fruit stand is in a CRA.

Commissioner Simon: Oh no, it's no matter where it is. To limit the city's power to create a larger area within their CRA district is to give a death notice to half the cities that we have in this country.

Mr. Hoyt: We are discussing the subject matter when we had a motion.

Chairman Kersteen: Why don't we defer further debate discussion to the committee meeting?
Motion carried unanimously.

7. **Council Members' Comments** - Chairman Kersteen

Commissioner Bill Dodson brought in strawberries from Plant City. Commissioner Dodson said that last month Commissioner Black promoted the Kumquat Festival and this month he would like to promote the Strawberry Festival in Plant City. The Strawberry Festival begins on March 2nd and runs through March 12th.

Mr. Hoyt had the opportunity to attend the Green Building Council of Florida seminar. Florida is taking a strong role, lead by the folks at the University of Florida in Gainesville which are intending to make their entire campus a "Green Campus." This is all part of something called LEED (Leadership, Energy, Environmental Design) and Bank of America is in the process in New York City of erecting a 2 million square foot corporate headquarters in Bryant Park that will have zero CO2 emissions. They will retain all water on site. They will improve quality of life for all office workers, everybody will have outside glass coming into their workspace. What was fascinating to me was to see that Sarasota County has already published and adopted an ordinance adopting green buildings for the entire county. For residents, for commercial and for anything else. This is one of the really significant opportunities to balance economics and environmental friendliness and better quality of space. I will provide this information to Council for distribution to each member.

8. **Program Reports**

A. **Agency on Bay Management (ABM)** - Mayor Mary Maloof, Chair
No Report.

B. **Clearinghouse Review Committee (CRC)**
No Report.

C. **Local Emergency Planning Committee (LEPC)**
No Report.

D. **Emergency Management**
No Report.

E. **Legislative Committee** - Commissioner Deborah Kynes, Chair
In the 2006 Legislative Session we will likely see:

- Tort Reform legislation dealing with joint and general liability;
- Class Action Reform
- Affordable Housing Legislation
- As a result of a couple of State Committee recommendations there could be some

- legislation regarding Coastal High Hazard and Impact Fees legislation.
- Growth Management Senate Bills 126 and 130 remained shell bills. Growth Management SB7082 appropriates \$250,000 on a non-recurring basis for the 2005-2006 fiscal year to be used for the purpose of the Strategic Intermodal System. It also reduces the appropriations to the State Transportation fund from \$200 million to \$175 million.

Following the Council meeting, the Legislative Committee will be discussing SB1020 DRI legislation. Mr. Pumariega will be attending a Senate Committee workshop in Tallahassee on February 14th.

The committee is monitoring the OPPAGA Boundary Study and as requested, we are asking member governments to pass a resolution opposing the boundary study.

Motion to approve OPPAGA Resolution #2006-1. (Collins/Todd)

Mr. Hoyt stated he would like to see a fuller description of the position adopted by the MPO Chairs Coordinating Committee, and a copy of their letter that should be a part of the letters attached to this resolution.

Mr. Pumariega: Once we get all the resolutions from all the member governments we will attach them, as well as letters from other organizations, to the packet that will be sent to Tallahassee.

The following municipalities have passed resolutions:

City of Clearwater, City of Oldsmar, City of Tampa, City of Plant City, Pinellas County

F. Regional Planning Advisory Committee (RPAC)

No Report.

G. Telework Tampa Bay

No Report.

H. Economic Development

No Report.

I. Regional Domestic Security Task Force (RDSTF)

No Report.

9. **Other Council Reports** – No Report.

10. **Executive/Budget Committee Report** - Chairman Kersteen

The Executive/Budget Committee approved the audit by Cherry, Bekaert & Holland which will come before Council at the March 13th meeting.

11. **Chairman’s Report** - Chairman Kersteen

Mr. Pumariega, Ms. Collins, Ms. Krahl, Ms. White and Chairman Kersteen were in Washington DC for the National Association of Regional Councils Policy Conference. There was a full agenda which included topics such as Regional Strategies for Emergency Response; Workforce Development for a Global Economy; and the challenges of Homeland Security and Community Preparedness. Chairman Kersteen attended a workshop on transportation and learned that by 2009 the Highway Trust Bill will be empty of funds. Washington DC is exploring the idea of having a meter which would be controlled by GPS. At the end of each month you would receive a bill for mileage. Hybrid vehicles probably will increase the burden, the lack of funds coming in to the Highway Trust Fund as they gain popularity. It was an interesting couple of sessions.

The highlight of the trip was the whirlwind day on the Hill where we met with legislators. We had six visits and stopped in to visit with a Congressman from my old district in Pennsylvania who pledged his support if Telework gets on the floor of the house. Mr. Pumariega, Commissioner von Hahmann and I sold him on this last year by pointing out he could use this on snow days. Last year the project had good support but was cut at the last minute. We are optimistic this year. Ms. White did a wonderful job of presenting our strategy plan to the various legislators, senators and house members. We also met with Congressman Young's aide, Harry Glen and he pledged that the Congressman would carry our ball in Washington and he looked for better success this year. As a result of what Ms. Todd passed on to Mr. Pumariega and I, we put our logo at the top of the proposal to show that this came from TBRPC and was not a "cookie cutter" approach.

Please mark your calendar for the 14th Annual Future of the Region Awards, Friday, March 31st at 11:45 a.m. at the Quorum Hotel in Tampa. The winners have been chosen and will be announced at this event.

12. **Executive Director's Report** - Manny Pumariega

There is a lot of discussion about Domestic Security in which we have been involved for the last couple of years. There is a cutback in the budget but I think enough funding will come through the state of Florida and to our counties to continue that effort.

Staff will keep abreast of eminent domain and will provide an interim report at the March Council meeting.

Reverend Golden thanked Gerald Smelt and Avera Wynne for their attendance and assistance at the Florida League of Cities Black Caucus meeting. They have attended for two years now and illuminated some of the important issues facing our state.

Adjournment 11:48 a.m.

Next Meeting - March 13, 2006 at 10:00 a.m.

Events Calendar located in Council folders.

Lori Denman, Recording Secretary

