

TREASURE COAST REGIONAL PLANNING COUNCIL

MEMORANDUM

To: Council Members

AGENDA ITEM 8

From: Staff

Date: October 21, 2016 Council Meeting

Subject: Annexation and Enclaves

Introduction

At the September 16, 2016 meeting, Council asked that staff make an informational presentation on annexation and enclaves. Annexation is the process whereby property that lies outside the boundary of any municipality (i.e. unincorporated land) is legally brought within municipal limits. All annexation activity is governed by Chapter 171 of the Florida Statutes (F.S.). In addition, counties and municipalities may also have charter provisions and/or comprehensive plan policies or other restrictions and guidance on annexation. The stated purpose of the statutes is to ensure sound urban development and accommodation of growth, establish uniform legislative standards for adjusting municipal boundaries, ensure efficient provision of services, and allow annexation only if services can be provided. This item presents a discussion of the issues facing local governments related to annexation and enclaves.

Background

Municipalities annex property for a variety of reasons such as to enhance their tax base, exert greater control over development activity in the area around the city, respond to requests by property owners to become part of the city, incorporate service providers into the municipal boundary to enhance the sense of community (schools for example), and improve service delivery efficiency by regularizing the city boundary. An enclave is an area of unincorporated land that is contained within a municipality. The attached maps illustrate municipal boundary and enclave conditions throughout the region.

There are five types of annexation:

1. **Voluntary.** Voluntary annexation is when a property owner requests to have their property annexed into the municipality. The property must meet statutory requirements (contiguous, not creating an enclave) but, other than an ordinance, nothing else is required. This is the most common method of annexation.
2. **Majority Voluntary.** This is a particular process for property that has no registered electors (voters) residing on it, whereby if owners of a majority of the parcels and a majority of the acreage agree to annex, the entire area is annexed (including “yes” and

“no” parcels). This type of annexation is accomplished by the city soliciting interest, providing notice, and adopting an ordinance. This is an effective method for commercial areas.

3. **Referendum.** The referendum process of annexation requires the adoption of a municipal ordinance and the conduct of a referendum vote of the registered electors residing in the area to be annexed. With a simple majority voting in favor, the entire subject area is annexed. There are special provisions in the statutes for areas where most of the land is owned by non-voters. Due to the cost of holding the referendum and the uncertainty of the outcome, this is not a popular method, but it can be very effective.
4. **Legislative.** This type of annexation requires the enactment of a “Special Bill” by the Florida Legislature, sponsored by a member of the legislative delegation from the affected area. If adopted, no further action by the municipality is necessary. Notably, this was the method used to start the transition in Broward County to a scenario where municipalities now encompass essentially all of the county.
5. **Enclave Interlocal.** When there is an enclave 110 acres or less in area, it may be annexed through an interlocal agreement between the county and the annexing municipality. The maximum enclave size that can use this provision was increased from 10 acres to 110 acres during the 2016 legislative session. The county must agree, through the interlocal, to the annexation, but the owners and residents of the area to be annexed do not need to agree.

Analysis

One of the significant issues that complicate annexation is enclaves. Enclaves are defined in Chapter 171 F.S.; in essence they are areas of unincorporated land surrounded by a municipality or a barrier such as a canal that prevents access to the area except through the municipality.

The existence of enclaves raises a number of concerns:

1. Inefficient service delivery for the city and the county. City services (police, fire, sanitation, etc.) may be traveling around and through the enclave to reach their customers and county services may be traveling deep into the municipality to serve a small number of customers.
2. Planning for the orderly development of an area is complicated by enclaves since their development is regulated by another jurisdiction that may not have a focus on the area since it is perceived as being within a city.
3. Jurisdictional confusion results from an erratic municipal boundary and enclaves cause a lack of clarity that can be very time consuming to overcome.

4. Unfair benefits to the enclave without commensurate payment of taxes. This situation can arise when police protection around an enclave has the effect of also protecting the enclave, for example.

While there may be many good reasons to do so, there are also many challenges with annexing enclaves:

1. The owners and residents may be satisfied with the services they receive and what they have to pay in taxes and fees for the services. They do not directly pay for the cost of inefficiency. The owners and residents may also be pleased to be “left alone” by the city and county.
2. Developed property is difficult to incentivize to annex, though extension of water and sewer service can be an effective tool in areas without existing service.
3. Infrastructure deficiencies may make it hard for the municipality to justify annexation financially, especially considering the limited tax revenue yield from residential property.
4. Political will is necessary to “force” property owners to annex and elected officials may be unwilling to incur the wrath of voters for a public benefit that is difficult to precisely quantify.
5. Size exceeding the statutory limits for interlocal annexation of enclaves used to be a significant impediment when the limit was 10 acres. The new standard of 110 acres could be a “game changer” that will allow the annexation of significant enclave areas. However, the annexation of larger enclaves will impact many more residents than the typical small interlocal annexations of the past.

Conclusion

Annexation and enclaves have the potential to be an issue for jurisdictions throughout the region, with the nature and seriousness of the issue varying by county. In Indian River County, there appear to be some enclaves in the City of Fellsmere, including a very large one, and there are some potential enclaves adjacent to the other cities where access is only available by going through the city. In Saint Lucie County, the most significant issue is the large number of apparent enclaves of various sizes in the City of Fort Pierce. There are also some apparent enclaves in the City of Port Saint Lucie including a very large one in the western part of the city, as well as some caused by limited access along the Intracoastal and the Saint Lucie River. In Martin County, there may be some enclaves in the city of Stuart caused by access only being available through the city. In Palm Beach County, the large number of cities creates the potential for a large number of enclaves and for areas that do not meet the statutory definition of “enclave,” because they are enclosed by more than one city (i.e. “City A” along the north and west sides and “City B” along the south and east sides). They are functionally enclaves, but the interlocal method in Chapter 171 F.S. cannot be used to resolve them. Many small enclaves in Palm Beach County were closed out over the past 10 years using interlocal agreements, and the

new statutory language increasing the size of eligible enclaves may spark a new series of annexations to resolve the larger enclaves.

The resolution of issues that arise in annexations and the identification and clean-up of enclaves are a task for the affected municipality and county to work out as each situation warrants. Counties in the region may want to consider adopting policies to guide this effort as their local conditions indicate. Council staff is available to provide assistance in these matters as requested by local government.

Recommendation

For information only.

Attachments

Exhibit A

Indian River County Municipal Boundary Map

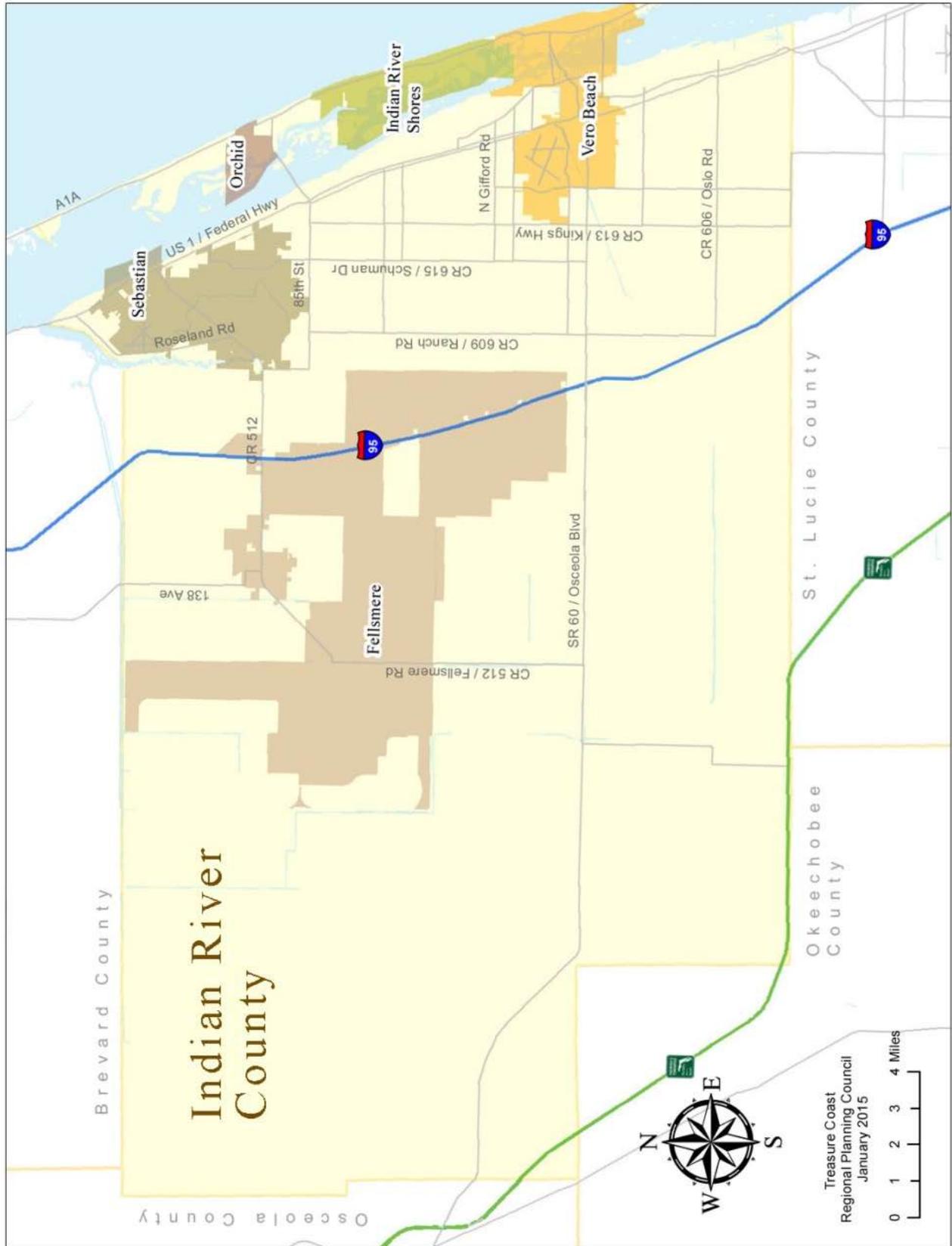


Exhibit B St. Lucie County Municipal Boundary Map

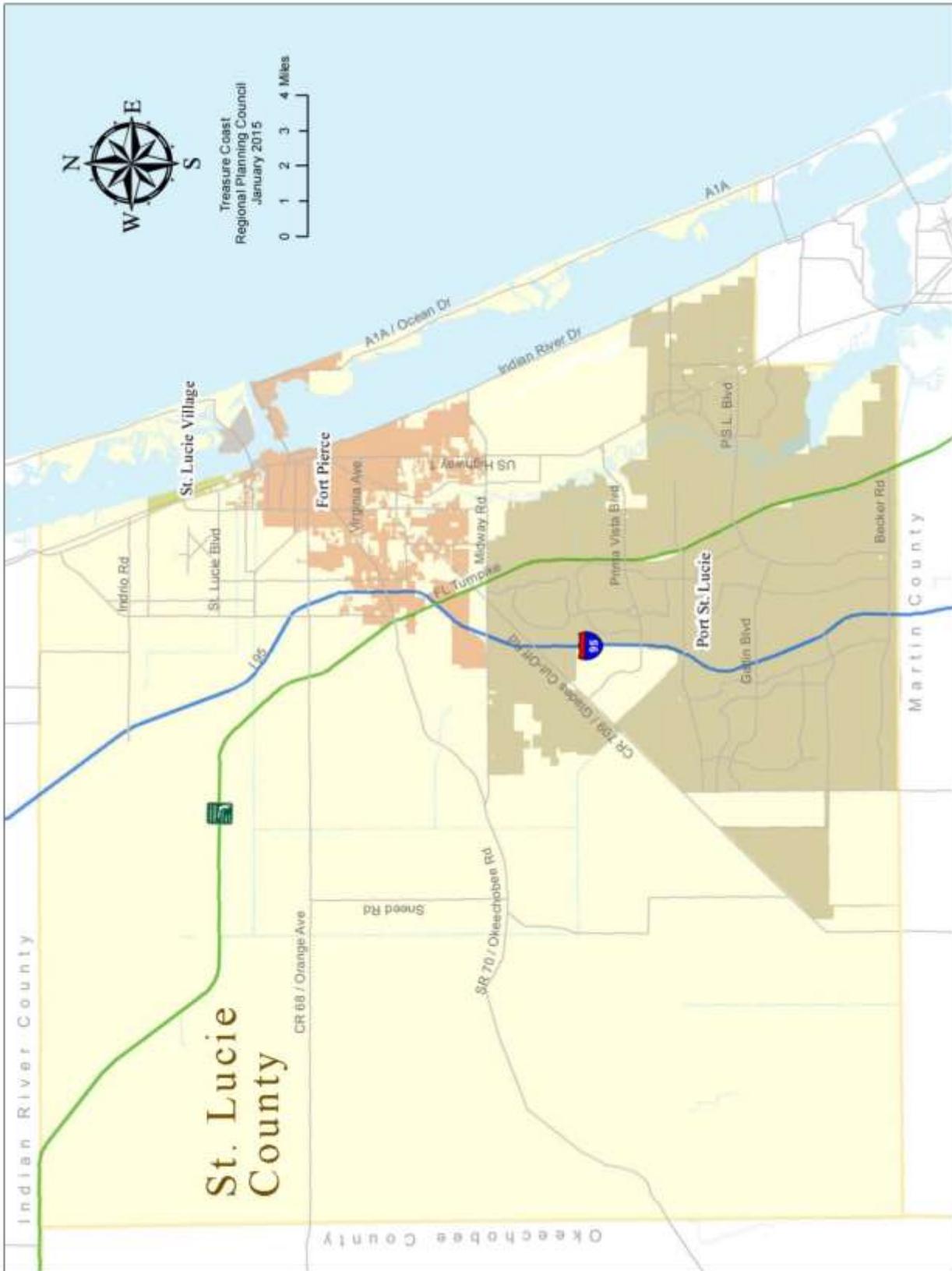


Exhibit D Palm Beach County Municipal Boundary Map

