

**CHARTER REVIEW COMMISSION
FEBRUARY 6, 2006**

RECEIVED
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SEMINOLE COUNTY
COUNTY MANAGER

CHARTER COMMISSION: District 1 - Jane Hammontree (6:12 p.m.)
Tom Boyko
District 2 - John Horan (6:20 p.m.)
District 3 - Grant Maloy
Pamela Ohab
Chairman Ben Tucker
District 4 - Larry Furlong
Jimmy Ross
District 5 - Ashley Johnson
Vice Chairman Egerton van
den Berg
Jeff Triplett

ABSENT: District 1 - Richard Harris
District 2 - Linda Dietz
District 2 - Sidney Miller
District 4 - Earl McMullen

ATTENDEES: Acting County Manager Don Fisher
Commissioner Carlton Henley
Commissioner Brenda Carey
Chief Deputy Clerk Bob Lewis
County Finance Director Dave Godwin
Assistant County Finance Director Susan
Krause
Senior Internal Auditor Bill Carroll,
Clerk's Office
CRC Attorney Alison Yurko
Lisa Spriggs, Fiscal Services Director
Mike Ertel, Supervisor of Elections
Ray Hooper, Purchasing Director
Mayor John Bush, City of Winter Springs
Eva Roach, Deputy Clerk

The following is a non-verbatim transcript of the **CHARTER REVIEW COMMISSION MEETING**, held at 6:10 p.m. on Monday, February 6, 2006, in Room 3024 of the Seminole County Services Building at Sanford, Florida.

Chairman Tucker announced that a few members will be absent and some are running late.

APPROVAL OF MINUTES

Mr. Ross indicated that he would like to make a correction on Page 10. He stated the third sentence of this page does not

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say what Mr. Ross said and he would like to make it very clear what was said. He said the Attorney General states that he believes the Statute in question was unconstitutional and it did not apply to the County Commissioners.

Motion by Mr. Maloy, seconded by Mr. Boyko to approve the minutes dated January 9, 2006, with the noted amendments.

All members in attendance voted AYE.

Tom Boyko gave the Invocation and led the Pledge of Allegiance.

Motion by Mr. Triplett, seconded by Ms. Hammontree to approve the December 5, 2006 minutes.

All members present voted AYE.

FINANCIAL SERVICES/Fiscal Process

Chairman Tucker stated the County has requested that Item 5, Financial Services, be incorporated with the Clerk's Office at the March meeting. He stated he would like to have the Clerk's and County's presentations at the same time.

Mr. van den Berg stated he feels that is a good suggestion.

Upon inquiry by Chairman Tucker, Bob Lewis, Chief Deputy Clerk, stated they discussed this before as it is a lengthy presentation. He stated his only concern is if they try to do both discussions at the same time, they will go all night.

Chairman Tucker stated he feels there are some benefits of having the whole issue discussed and presented during the same night.

Upon inquiry by Ms. Hammontree, Chairman Tucker advised he feels that each of those presentations will go at least an hour.

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He stated he feels that issue can be the only one scheduled for the March meeting.

Mr. Ross stated that he will probably not be at that meeting and Mr. van den Berg has written some very good comments on this subject and he presumes that will be part of those discussions.

Mr. van den Berg stated it doesn't bother him to discuss this subject during the March meeting, and if they need more time in April or May, that would be fine as well. He stated he feels it would be logical to hear in sequence from the Clerk, and then from the County.

Mr. Ross stated he has only one item that he wants to add, which is what Mr. van den Berg has written, and that is "remove the internal audit functions independently reported directly to the Board to remove internal audit functions etc. and establish an audit committee." He said he finds that Chapter 125.85(5) states that "one of the duties of the County Manager is to supervise the collection revenue, audit and control all disbursements and expenditures, and prepare complete accounts of expenditures." That is his duty and only a court or the legislature can only take it away from him. He recommended that someone read the Attorney General comments and the question that was asked of him.

Mr. Furlong stated there will be two presentations relative to this issue and maybe they can give each one a ½ hour to 45 minutes and then an opportunity to rebut.

Chairman Tucker stated they can do that if they want to have those two presentations at the same time.

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Chairman Tucker stated Mayor Bush, City of Winter Springs, asked for a moment to address his letter that he submitted relative to amendments to the Charter.

Mayor John Bush stated the City of Winter Springs passed a resolution regarding the charter and there are some items that they would like to discuss. A copy of the letter from the City of Winter Springs was received and filed.

Chairman Tucker stated that will be placed on the April agenda.

Mr. Horan stated he believes there was some supplemental information that may be substantially similar to what they have now.

EMINENT DOMAIN FINAL LANGUAGE

CRC Attorney Alison Yurko submitted a revision (received and filed) to Article V of the Seminole County Charter relating to eminent domain. Information packet relating to the final language was received and filed. She stated she has taken out the language that addresses the issues relating to the Chapter 163 process. She read revised Section 1.2 into the Record.

Upon inquiry by Mr. Furlong, Ms. Yurko advised it is not intended to apply to a private utility. It applies only to Seminole County or municipalities therein. She stated she specifically thought about that point and she was very careful in the way she drafted that language. There are private utilities that have condemning authority per Statute.

Mr. Maloy stated at the last meeting he felt that this provision should apply to all properties and the way it is now, he doesn't see a need to do it. They have certain constitutional rights, and one is our property. He stated he doesn't see why they are saying on one hand that you have a

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right to your property, but if you are in the CRA you don't have right to it. He said he feels it should apply to all properties. The issue of blight was raised. There is a process that if someone has junk property, the lot clearing ordinance would require them to clean up the property and that happens without eminent domain. This exempts several thousand pieces of property. He said he feels the power of eminent domain should not be used for the purpose of economic development.

Mr. van den Berg stated he read this to mean that the only CRA that would be exempt from this is the CRA that has been active prior to this.

Ms. Yurko stated that doesn't necessarily exempt properties under Chapter 163, but what it says is if they have the legal authority outside Chapter 163, then it basically nullifies those provisions unless you are already validly enacted under Chapter 163 as of the effective date of this amendment.

Ms. Yurko informed Mr. Maloy that it does not apply to any properties that are currently in the CRA.

Mr. Maloy stated if it doesn't apply to all properties or to all property owners, then he doesn't see a need to do this.

Ms. Yurko stated the concern she had was if they have a CRA that is pursuant to a plan and is in the process, that is something they wouldn't want to interrupt in midstream. If property is added, it would apply to that too.

Mr. Maloy stated many of these abuses are occurring in CRA's and protecting those property owners' rights is as important as those owners that are not across that line.

Discussion ensued between Ms. Yurko, Mr. van den Berg and Mr. Furlong relative to how the process applies to property owners in a CRA.

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Mr. Furlong stated he doesn't think the County has ever condemned anything for blight. He stated his concern is the Fern Park area has railroad cars that have been abandoned for years and is essentially a vagrant home. There is a redevelopment plan for that area. He stated he feels it would fall under the definition of blight and it could be boarded up, but it certainly is less than a valid use for property as it relates to the community. He said if that property could never be condemned for anything other than a utility easement or retention pond, does the CRC want to put something like that in the charter.

Chairman Tucker stated they would have to go back down to what the basic principle of private property rights is.

Mr. Ross stated Code Enforcement does not foreclose because a property is blighted. They foreclose because that person was given a penalty and the government forecloses. He said he stated at the last meeting that it is the purpose of eminent domain and not what might happen. He quoted Mr. van den Berg's recommendation that he proposed at the last meeting as follows: "The public purpose for initiation of eminent domain proceedings by Seminole County, or any municipality or community redevelopment agency or other entity delegated redevelopment power by Seminole County, shall not include any purpose which provides for the transfer of the property taken for sale or lease in whole or in part through a private entity."

Mr. Horan stated the first thing they are trying to do is craft something which says, whether you are in a county or city, that somebody cannot come in and manipulate the process to use condemnation to end up bettering their own nest. The second thing is they are trying to focus on Chapter 163 and how they

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can improve that sentence. He stated what they are really talking about is changing that sentence that it shall not apply to any properties that are in a redevelopment plan but where the power of eminent domain is not an issue.

Ms. Yurko stated she believes it is the opposite. She stated what Mr. Horan is talking about is if they have an exemption that he wants to be narrower, and he wants to apply not only when there is a CRA but to have a resolution of necessity for eminent domain that has been initiated.

Mr. van den Berg stated he thought there was a strong consensus that they didn't want to prohibit the use of local government powers for eminent domain for a private investment or purpose. He stated he feels it is important to find out the sentiment of the group whether they wish to inhibit the use of eminent domain by the counties, cities or CRA's or whether the properties are used in the CRA district or plan, then they can proceed accordingly.

Ms. Yurko stated she believes the group has already reached that consensus. This language is only aimed at not getting into a situation to where they will make it legally vulnerably challengeable because there is something in the pipeline. She stated she feels the group has made it very clear as to where they are with the CRA. The point is there may be a lot of properties out there in CRA's where they don't necessarily have an eminent domain proceeding going on, and it is in those cases where they may want to exempt. Even with tightened up language, you still can get into the issue where you might have a redevelopment plan that's in place where there has been some reliance on a future eminent domain; and that is why she made the language broader. She said she feels it should be very

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clear in the language that they are not attempting to undo selling surplus property. The issue is how does the CRC want to address the last sentence. It can be eliminated or they can add the following language after Florida Statutes in the third to last line, "when a resolution of necessity for eminent domain has been passed."

Upon inquiry by Mr. Horan, Ms. Yurko advised the safest thing to do is to not interfere with the CRA plan and if they want to do that, then the way to tighten that up is to come up with a plan with an eminent domain proceeding.

Motion by Mr. van den Berg, seconded by Mr. Horan to continue to endorse the concept of prohibiting the use of eminent domain for private purposes by the County or by any government in the County, including the CRA, a blanket prohibition except only those proceedings already in process; and direct counsel to redraft the language.

Under discussion, Mr. Ross stated he doesn't want to go any further with this unless the cities have their voice.

Mr. Maloy stated he would like to see if there are any eminent domain proceedings that are going on now and if not, they can remove it all together.

Chairman Tucker stated there are going to be three public hearings in which they will be asking public input on these issues. The Charter Commission can hear the input and then go back and regroup from there.

Mr. Furlong said blight is a very serious problem in larger cities. He stated he doesn't know how they deal with it in the larger cities, but he would hate to foreclose their ability as a community to look out for the interest of the community by protecting slum lords. He said he doesn't think the majority of

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the people in this County are in favor of allowing them that protection. Therefore, he cannot support the motion.

Mr. Triplett stated the Sanford CRA has a different plan they put in every year and they do not want to see historic buildings falling down. The 17-92 CRA does not have the historic value as the downtown Sanford CRA has. He stated he feels the CRC needs to be very careful as to what the CRA's plan is.

Mr. Horan stated he feels the cities will be speaking up on these issues. He stated he believes the role of the CRC is to put the issues out there for discussion as there is going to be a lot of discussions with the city leaders. He believes the CRC's job is to draft whatever they can to address the issue and bring it before the public to see what they say.

Ms. Yurko stated she was careful in drafting this so it did not apply to any code enforcement proceedings. It was drafted only to apply to eminent domain proceedings.

Mr. Furlong stated the motion does not include an exception to blight.

Ms. Yurko clarified for Mr. Triplett that the cities still have the ability to enact historical preservation ordinances. She stated the issue of demolition and certificate of appropriateness for historic structures remains in place. They retain the ability under nuisance abatement codes and code enforcement proceedings to pursue demolition of buildings they think are hazardous. What they would lose is the ability under a CRA to take property that has been designated in a redevelopment plan as some type of project. They would potentially lose the ability under Chapter 163 to ask the

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municipality that created them for the authority of eminent domain.

A **roll call vote** on the motion was taken with Mr. Horan, Ms. Johnson, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy, Ms. Hammontree, Ms. Ohab and Mr. Triplett voting AYE. Mr. Ross and Mr. Furlong voted NAY.

The Chairman recessed the meeting at 7:05 p.m., and reconvened it at 7:15 p.m. this same date.

REQUIRE VARIOUS ACTIONS PERFORMED BY ORDINANCE

Mr. Ross referred to information packet (received and filed) relative to various actions performed by ordinance. He stated what he has proposed for the charter is to give direction to the County Commissioners on actions requiring ordinances. He stated he is of the opinion that public hearings are a good thing for the people and no one should have to go to his government begging to be heard. The only thing that guarantees that is when many items require ordinances as opposed to a resolution. He referred to an article in the newspaper relative to the property owners' lakefront properties in Kissimmee going to private developers. The residents heard about it and started to complain. He said the Orlando Sentinel indicated that the government does not exist to serve individual lobbyists but to serve the people; and the more the people know, the better the government responds.

Upon inquiry by Mr. van den Berg, Mr. Ross advised State Statutes require two public hearings for the budget, but it can be amended and it is passed by a resolution. Every municipality in this State is required to do their budget by an ordinance.

Don Fisher, Acting County Manager, reviewed what issues are required to be adopted by ordinances, what issues are adopted by

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resolutions, and what the requirements are for adopting the budget.

Lisa Spriggs, Fiscal Services Director, explained which issues of the budget require advertised public hearings and which ones do not.

Mr. Fisher clarified for Mr. Furlong what the difference is between a public hearing and public meeting and when the public is able to speak. Discussion ensued.

Mr. van den Berg asked if it would be in order to ask the County Manager to respond to the acts required by an ordinance that Mr. Ross has indicated in the backup.

Mr. Maloy stated that is fine with him. He stated he feels there is another way to approach this. He thinks there is a lot of validity to how hard it is to speak in front of the Board as it is somewhat confusing. One concept is if anyone had an issue to address the Board, they can submit their public input at the beginning of the meeting.

Mr. Horan stated the City of Winter Springs operates that way.

Motion by Mr. van den Berg, seconded by Mr. Furlong to continue this issue to a subsequent meeting and ask the County Manager to inform the CRC as to which items are enacted only after consideration at a hearing, or by ordinance, at which there is an assured opportunity for the public to speak.

Under discussion, Chairman Tucker advised this item can be addressed at the April meeting.

Ms. Yurko informed the CRC that ordinances and resolutions are addressed in Chapter 125. She stated notices for ordinances are required to be advertised in the paper 10 days prior to the

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hearing and there is also a requirement for ordinances to be available in the Clerk's office for the public to review.

Upon inquiry by Mr. van den Berg, Mr. Fisher advised emergency ordinances are done as well as enumerated under the Statutes.

Chairman Tucker requested that Mr. Fisher address the emergency aspect as well.

Chairman Tucker reiterated that the issue concerning ordinances will be heard at the April meeting with a presentation by the Acting County Manager.

All members in attendance voted AYE.

TAXPAYER BILL OF RIGHTS

Mr. Maloy referred to information packet (received and filed) relating to Taxpayer Bill of Rights (TABOR). He stated it is a simple concept of putting a leveling rule in place on the growth of government. Colorado has had this in place for 12 years and they went from a State that had slow economic growth and now it is No. 4 in the nation. What it basically does is take into account the problems that occur in the economy and property values. They have now gone through a major upswing of property tax revenue. It basically sets up a level as to how fast government can grow. If revenues come in quickly, it is split into a rainy day fund with limited uses, but when the level goes back down in the economy, then those funds are used so that services would not be cut nor taxes would be raised. Levels would also be put in place that if the revenues are far in excess, a refund would be sent to the taxpayers. Other States, such as Ohio and Maine, are looking at this aspect. He stated if the CRC is interested in this, it may be helpful to have the professor from Florida State University to come and

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speaking on this issue. He added Colorado decided to suspend this for five years because of some issues that came up.

Upon inquiry by Mr. Horan, Mr. Maloy advised during the years he served on the BCC, there were a couple of millage reductions, but it hasn't happened in a while. This would put in a tool to help level it out. He stated he feels that if you are a commissioner, it would be nice to have something like this to turn to. He said this would really help those groups wanting money for their projects.

Mr. Ross stated he likes the idea in some type, but he doesn't know what would be appropriate for a County. He stated Brevard County has spending limitations. Several years ago, the City of Longwood was on the brink of insolvency and there were those who wanted to do a lot of spending. The bottom line is they forced on the ballot a question that would prohibit the City of Longwood from going in debt without voter approval. After that passed, the City of Longwood has never been in better financial shape and they have had a healthy surplus for years now.

Mr. Maloy stated the City of Longwood has a debt limitation without voter approval. He stated this would work more on an expenditure level and the other ones would work on going further into debt.

Motion by Mr. Maloy, seconded by Ms. Hammontree to pursue a fact-finding concept on this issue and bring it back with sample language at the April meeting.

Under discussion and upon inquiry by Mr. Horan, Mr. Maloy advised part of the problem that Colorado ran into was there was another amendment put in place to make them spend more on education.

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Mr. Horan stated the one thing he likes about this is that when you petition government you usually want the government to spend some of its money on you. When you do something like this within the structure, one of the nice things about ingraining it into the structure is it does get those organizations that are lobbying to try to reduce government rather than get government to spend more money on them. It gives those organizations more power. He stated he can understand how this will work from the State, but he doesn't understand how it will work on the local level.

Upon inquiry by Ms. Johnson, Mr. Maloy advised he didn't see an analysis that addresses the use of State or local income tax.

Mr. Furlong stated the County has authority to set the tax rates and various fees. They can raise, lower or pre-determine cash set by the State, and they can put money in a rainy day fund. There is a reserve set aside for rainy days to cover shortfalls or unexpected expenses. What this proposal would do is if the growth and revenue exceeds some figure, then that money must go into the reserves rather than be allocated within the budget.

Chairman Tucker stated it gives a guideline voted on by the people of what they want, therefore, he feels it would be a good thing.

Mr. Ross stated he believes those in government have a responsibility to raise taxes when it is necessary. He stated he doesn't have a problem paying taxes, as he feels he gets more for his money from the services that he receives. What people object to is the excesses of government.

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Mr. Maloy reiterated his motion to authorize staff to bring back sample wording to review along with additional information.

A **roll call vote** on the motion was taken with Mr. Horan, Mr. Ross, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy, and Ms. Ohab voting AYE. Ms. Johnson, Ms. Hammontree, Mr. Furlong and Mr. Triplett voted NAY.

ETHICS

Mr. Maloy reviewed the Ethics information packet (received and filed). He stated he has seen problems relating to ethics from the federal, State and local levels. He said what he would like to propose is to put in place, by ordinance, a provision requiring a disclosure of lobbyists and banning all gifts. That should include lobbying disclosure of fees and they can report every three months. There currently is a two-year ban on commissioners lobbying their board after they leave office and that should apply to the other County boards, like P&Z Commission.

Upon inquiry by Mr. Horan, Mr. Maloy advised he feels it should be applied to the Commission, all the Boards and staff directors as well. The other part of the concept is that it should be reviewed by an independent board with penalties put in place.

Upon inquiry by Chairman Tucker, Mr. Maloy advised this would include all Constitutional Officers.

Ms. Johnson asked if this would encompass the conflict of interest statement.

Mr. Maloy stated he would have no objections to that.

Ms. Johnson stated she is not sure if the conflict of interest statement would expand to department directors.

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Motion by Mr. Maloy, seconded by Mr. Ross to move forward with the County ethics and lobbying proposal with language to be brought back at the appropriate meeting.

Under discussion and upon inquiry by Mr. Furlong, Ms. Yurko advised the CRC cannot do anything inconsistent with the State laws. She stated they could be more restrictive and add more requirements; therefore, they would have to look at them on a case-by-case basis.

Mr. van den Berg stated he would prefer leaving out registration of lobbyists.

Mr. Ross stated they should make it a second degree misdemeanor if they violate it. It is one thing if they get slapped on the hands, but it is another thing if they have to stand before a judge.

Mr. Horan stated he wouldn't mind looking at it further but he would have to echo Mr. van den Berg's comments relating to the disclosure of the lobbyist. He stated he would oppose banning gifts at the elected level or at the department or bureaucratic level. He said he doesn't think they should look at the disclosure of lobbyist or banning of gifts, but he would like to see conflicts of interest and personal property.

Mr. Maloy stated he has seen situations where a company had a lobbyist on board and one didn't to lobby for contracts. If he were a business owner trying to get those contracts, it would be helpful to know that the other side hired someone to lobby for them.

Chairman Tucker stated he thinks the public has the right to know about the paid lobbyist.

Mr. Horan stated when you get into trying to regulate the activities to find out who the lobbyist is, what activities are

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or are not prohibited, and disclosure of who you represent, he doesn't know how they can get all of that in the charter. The other thing about this is it really freezes out the lawyers from representing their clients and you will end up in a situation where you don't want to register as a lobbyist because some representation is a confidence you have to keep. The same thing holds true at the State level.

Mr. Ross stated he feels lobbyists can be controlled if this is written right and they can get results by criminalizing that person. He stated the only way to regulate government is to put it on the ballot and let the people do it.

Upon inquiry by Ms. Hammontree, Mr. Fisher advised Seminole County does have a code of ethics that particularly applies to employees. He stated County employees are not allowed to receive gifts in any amount. He said he can provide that policy to the CRC members.

Ms. Hammontree and Mr. Horan stated they would like to see that.

Ms. Hammontree stated if they are going to include gifts, they might want to specify a dollar amount.

All members in attendance voted AYE.

NON-INTERFERENCE CLAUSE

Mr. Ross referred to the information packet (received and filed) relating to Non-interference Clause. He asked Mr. Maloy if he would adopt this issue as his own as he will not be in attendance at the next meeting.

Mr. Maloy stated they just voted on that and it might be appropriate to include that.

Mr. van den Berg stated the Charter prohibits the County Commissioners from interfering with the departments. He stated

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he feels that is an unfortunate word to use as it could say that the County Commissioner can't contact them or it could be interpreted as interference with staff to carry out their policies. He stated Mr. Ross has proposed to the prohibition of interference by commissioners and to make it a criminal offense or make it grounds for removal of a commissioner, and he personally has a total difference of opinion.

Mr. Ross stated most likely this will be his last meeting. He stated dismissal is in the City of Longwood's charter and one other County, he believes Polk County, addresses it in their charter as well.

Chairman Tucker asked would it be appropriate if the CRC brought this up for full discussion at the April meeting.

Mr. Ross read Article IV, Section 7 of the Florida Constitution.

Ms. Yurko submitted a copy of a section on non-interference by the Board of County Commissioners. She stated Columbia County is the one that uses this language.

Mr. Ross stated this does not mean that a County Commissioner does not have the right to ask for information. The interference starts with issuing orders and interfering with the County Manager as he is the boss of county government.

Upon inquiry by Mr. Furlong, Mr. Ross stated a County Commissioner does not have the right to issue orders to an employee. They are 100% legislators and not administrators in any form or fashion. If they do other things that interfere with what the work force has been ordered to do, then that is interference.

Motion by Mr. Ross to accept the substance, as submitted, relating to the Board of County Commissioners being provided a

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penalty if any commissioner violates the non-interference clause.

Mr. Ross stated a penalty could be that the first offense would be a formal sensor by the County Commission. The second offense is dismissal. A formal sensor is a letter signed by the Chairman indicating what has happened.

Upon inquiry by Mr. Maloy, Mr. Ross explained how it was handled in other counties as to determining if someone was in violation.

Mr. Horan stated he has trouble with the language that would prohibit an individual commissioner from interfering with the employees or agents under the supervision of the County Manager. He said he would not agree with Mr. Ross' proposal that they increase that to a level where penalties are involved. When he looks at the way the Charter is set up and the way the Commission is set up, the Commissioners elect a Chairman, who is there to enforce order and they have their own rules. If someone is acting out of line by interfering with the business of the commission, he can imagine the Board is going to enforce that. He said he would like the word "interfering" taken out of it. He added he is not fond of the non-interference provision as the way it is set up, they can enforce their own rules and they can enforce it through the politics of a small group of very powerful people working together. He stated he remembers when a School Board member had a problem with this issue and he was voted out when he ran for office again.

Mr. Horan informed Mr. Ross that he doesn't think that kind of issue needs to be in the charter. That is something he would expect the BCC would take care of themselves.

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Mr. Ross stated Seminole County is a charter government and it specifically points out who is in charge and that is the County Manager. The rest of the people are appointed as county officers. The Sheriff has the power of all aspects of his organization.

Mr. Horan stated the County Manager serves at the pleasure of the BCC. The Sheriff is a Constitutional Officer.

Mr. Ross stated if he is an appointed officer, he has the same statute and status as an elected county officer.

Mr. Horan stated he feels the Board could take care of that on their own. He stated he doesn't think they need something in the charter that says that these five people do what they expect of them.

Mr. Ross **clarified** his **motion** to accept the provision as presented with a provision that it include a first offense of sensure.

Mr. Maloy **seconded** the **motion**.

Mr. van den Berg stated he doesn't think this is a problem in Seminole County and it shouldn't be in the proposal to amend the charter. He stated he doesn't think the County Commissioner should be in jeopardy of being removed by their peers if someone interprets interference. He said he feels strongly that Mr. Ross has a view of the powers or the responsibilities of the Board that would fall short of what this charter calls for. The BCC is entitled to respect the County Manager in carrying out the responsibilities. He stated he will be voting against the motion.

A **roll call vote** on the motion was taken with Mr. Ross, Mr. Maloy, and Ms. Ohab voting AYE. Mr. Horan, Ms. Johnson, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Ms. Hammontree, Mr. Furlong and

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Mr. Triplett voted NAY, whereupon the motion **failed** for lack of a majority vote.

NEXT SCHEDULED MEETING

Chairman Tucker announced that the next scheduled meeting will be on Monday, March 6, 2006, and the agenda will be what they previously discussed.

Mr. van den Berg questioned if it would be appropriate to allot a certain amount of time for the Clerk and the Financial Services staff to make their presentations.

Chairman Tucker stated he can work out a schedule with the County Manager and Mr. Lewis.

Mr. van den Berg stated he feels they can focus and organize their presentations, but he feels it would be helpful if both presenters can bring an organizational chart with a head count so they can see what resources are deployed in these different activities.

Chairman Tucker stated anyone else that is knowledgeable in the area can also make a presentation.

Ms. Hammontree reminded everyone that they have put a lot of issues on the April meeting.

Chairman Tucker adjourned the meeting at 8:35 p.m., this same date.



Memorandum

To: Charter Review Commission

From: J. Kevin Grace, County Manager 

Date: December 29, 2005

RE: County Government Organization – Finance and Auditing

As I indicated to you at your December meeting, I am providing you with this memorandum to add the perspective of the County Manager to your discussion and debate on the organizational structure of the County, as it relates to the accounting and auditing functions. As the chief executive who has worked with the existing structure for the past 6 ½ years, perhaps some of my observations will be useful to you in your deliberations.

As a preface to my remarks, let me first state that I do not consider this issue to be a critical one regarding the future of the County. There are many issues on the horizon that are of far greater importance that will directly impact the quality of life in our county. Seminole County Government has been extremely successful over the years under the current organizational structure, and I would certainly anticipate that this success would continue if the Charter Review Commission decides to leave the current system in place. Second, my thoughts on this matter are not intended to be a reflection on individuals or personalities, but rather, an observation on the structural system of government.

With that introduction, let me say that I have worked as either a Deputy County Manager or the County Manager for a total of approximately 15 years in two Florida counties that have the “old Florida” structure in place, with the Clerk of the Court being responsible for the accounting, auditing, and BCC records functions. My conclusion from this experience is that this is a governmental structure that is outdated, and creates an unnecessary conflict point for even the most routine of business matters. Further, it is my opinion that the current system actually results in less accountability to the public than other organizational alternatives.

Outdated Structure

I believe that the Clerk of the Court handling the Board of County Commissioner’s finances made perfect sense when the Clerk was one of the few full-time officials in county government. It was a reasonable and practical arrangement when County Commissioners were part-time commissioners and full-time farmers or business owners

doing their civic duty by occasionally traveling to Sanford to conduct the official business of the County. It was a logical structure prior to the existence of a County Manager serving as the CEO of the organization under the Board of County Commissioners.

The City/County Manager form of government is based on the corporate model of a Board of Directors (BCC) and a Chief Executive Officer (County Manager). I would challenge you to find a corporate structure where the accounts payable, accounts receivable, and payroll functions are the responsibility of a 3rd party who is answerable to neither the Board of Directors nor the CEO.

The County has advanced tremendously in its capabilities and sophistication in recent years, but is constrained by this structural remnant from the 1800's.

Conflict

Unfortunately, the current structure is the root cause of a tremendous amount of conflict between the County Manager and his staff and the Clerk of the Court, and sometimes between the Board of County Commissioners and the Clerk of the Court. The County Manager serves as the Chief Budget Officer while the Clerk serves as the Chief Financial Officer. There is a substantial amount of overlap in these roles which leads to much of the conflict. The following are just a few examples of the types of issues that have arisen in the past:

- The Clerk refused to execute closing documents on a commercial paper transaction approved by the Board stating that she did not see the need to borrow the monies due to substantial funds already in the bank. This was eventually resolved by the County Manager's staff demonstrating that the funds in the bank were either restricted or designated for other projects. The accountant should not be able to refuse to implement a legitimate decision of the policy making board.
- The Clerk has historically refused to allow the acceptance of credit cards for payment by customers of the County due to concerns about security. While some progress has been made in recent years at the insistence of the BCC, the fact remains that, in this electronic age, only one BCC department (Environmental Services) currently accepts credit card transactions. Such operational decisions affecting customer service should not be made by the accounting arm of the organization.
- The Clerk refused to issue payroll checks due to a disagreement with the County Attorney's interpretation as to the results of the BCC election of a Chairman.
- The Clerk's office has amended the official financial records in direct contradiction to specific BCC action regarding funding of a project, because they disagreed with the policy decision made by the BCC (i.e. funding allocation of Jetta Point). The accountant should not have the discretion to overrule the BCC on funding decision unless they were somehow illegal.
- Clerk and County Manager have disagreed on the responsibility for securing the purchasing card contract with a bank. It is currently set up through the Clerk's

office. The Clerk has previously set up merchandise codes with the bank, without consultation with the County Manager, to limit what can be purchased by County staff. The Clerk has also set arbitrary purchase limits on cards that have resulted in embarrassing rejections of the County purchasing/travel cards. The Clerk feels that this is part of the “pre-audit” function within her responsibilities, while the County Manager feels that this is a “purchasing” function under his purview. While many of these issues have been resolved for the moment, the on-going impasse has resulted in the county continuing to operate under an old contractual arrangement without the benefit of a rebate which many local governments are enjoying.

- The Clerk and County Manager have disagreed on computer and software issues in the past. These have ranged from the product selection and purchase to access to data, etc. The availability and access to key data by the Board of County Commissioners, the County Manager, and staff is entirely at the discretion of the Clerk. As the financial systems have become more integrated, there is an even greater potential for conflict, since county staff increasingly relies upon access to the Clerk’s financial system for many other functions, such as purchasing and human resources information.

Less Accountability

As I stated earlier, it is my contention that there is actually less accountability in the current system than other alternatives. The reason for this is simply that very few people actually even know that the financial functions of the BCC are vested in the “Clerk of the Court”. It is my belief that the average citizen of the county has no idea that the finances of the BCC are handled by anyone other than the BCC and County Manager. Under the current system, if there were financial problems, it might prove difficult to clearly determine who was accountable to the public.

Recommendations

It is my recommendation that the Charter Review Commission consider the following changes to the Charter:

BCC Finance – Place the finance-related functions (accounts payable, accounts receivable, payroll, investments, etc.) under the County Manager consistent with the typical corporate or city government structure. I understand that there is serious consideration of an elected comptroller as an alternative. It is my opinion that the elected comptroller would not really be a change in the current structure so much as it would be a change of the title, and perhaps a change in the person in the position.

Further, a primary ideal contained within the professional City/County Manager model is to remove political motivations as much as possible from the day to day decision making process. It seems to me that if there is one area of government that you want to be devoid of political machinations, it should be in the area of finance and accounting decisions.

Auditing Function – Create the office of BCC Auditor, which would be a position appointed by and reporting directly to the BCC. This would provide the proper checks and balances by separating the auditing function from those responsible for cutting the checks.

Even if the BCC Finance were to remain with the Clerk of the Court, I would encourage you to seriously consider making this change to the audit function.

BCC Records – This is a responsibility that could remain with the Clerk of the Court or be assigned to the County Manager.

I hope that these observations are of some help to you in your consideration of these important matters. If you have any questions please do not hesitate to contact me.

Cc: BCC
Don Fisher
Sally Sherman
Bob McMillan



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02/07/2006 11:42 AM

To <Speters@seminolecountyfl.gov>
cc <rmcmillan@seminolecountyfl.gov>, <dfisher@seminolecountyfl.gov>
bcc
Subject 2/7/06 eminent domain charter draft

Sharon – Could you please forward this to the Charter Review Commission? Please be sure to include me on the distribution list for a Charter Review mail-outs. Thanks. Alison

Dear Charter Review Commission –

Attached please find modified language in accordance with last night's Charter Review Commission meeting. Note that I have added back in reference to community redevelopment agencies in the first sentence to make it clear that this restriction would also apply to any community redevelopment agencies that have been delegated eminent domain authority by a local government in accordance with Chapter 163, which I believe is the group's intent.

Thank you.

Alison M. Yurko
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(407)340-7043 Charter Amendment re Eminent Domain 1-23 -06.doc

Proposed Revision to Article V of Seminole County Charter

Section 1.2 Eminent Domain

The public purpose for initiation of eminent domain proceedings by Seminole County, or any municipality or community redevelopment agency therein, shall not include any purpose which provides for the transfer (in whole or in part, by sale or by lease), of the property taken to a private person or entity. This restriction is not intended to prevent the conveyance of surplus property to private persons or entities in accordance with applicable state statutes nor is it intended to impair eminent domain proceedings in progress. In the event of any conflict between this provision and Chapter 163, Florida Statutes, as it may be amended and replaced from time to time, Florida Statutes Chapter 163 shall prevail.