

MINUTES

CHARTER REVIEW SUBCOMMITTEE MEETING
APRIL 24, 2006

CHARTER SUBCOMMITTEE: Edgerton van den Berg, Chairman
 Grant Maloy
 Ben Tucker
 Linda Dietz

ATTENDEES: Attorney Alison Yurko
 Acting County Manager Don Fisher
 Chief Deputy Clerk Bob Lewis
 Sandy McCann, Deputy Clerk

The following is a non-verbatim transcript of the **CHARTER REVIEW SUBCOMMITTEE MEETING**, held at 6:33 p.m., on Monday, April 24, 2006, in Room #3024 of the Seminole County Services Building at Sanford, Florida.

The meeting was called to order by Subcommittee Chairman van den Berg who advised the meeting was scheduled in order to discuss ethics.

Grant Maloy gave the Invocation and led the Pledge of Allegiance.

Mr. Maloy distributed some examples (copy received & filed) of county charters regarding conflicts of interest and lobbyists. He said his goal is to put in a better line of where an official is serving the public and where a person is using the office to personally profit. He stated other cities and counties around the country have provisions for this. He further stated that they can either put in a shell and instruct the BCC to fulfill that or they can put in more details.

Chairman van den Berg stated he thought the CRC was very clear that it is wanting some kind of mandate to the BCC to adopt, by a certain date, standards that would include, at a minimum, a list.

Mr. Tucker suggested that instead of using an advisory panel (ethics commission) for enforcement, they use the existing structure already in place.

Chairman van den Berg stated the items on his list for discussion are: conflicts of interest; regulation of lobbyist; gifts; bidding at public auctions; posting of travel expenses; disclosure of owners of land subject to rezoning; campaign contributions; and limiting County employees campaigning activities.

Mr. Maloy stated he believes they are going to address campaign contributions separately. Whereupon, the Chairman concurred.

Discussion ensued relating to including in these prohibitions all BCC employees, all Constitutional Officers and their employees; and the Soil & Water Conservation District members.

Attorney Yurko cautioned the committee about including the School Board. She advised that appointed advisory board members are already covered under Chapter 112.

Mr. Tucker advised the Code Enforcement and the Board of Adjustments are the only quasi-judicial boards.

Chairman van den Berg suggested finding out what they want to do and then determine who it should apply to.

Discussion ensued with regard to the conflicts of interest. Mr. Maloy read his proposal (received & filed) and referred to Palmetto Bay and Cutler Bay Counties' language regarding same.

Attorney Yurko reviewed the State law concerning conflicts of interest, advising she believes the CRC needs to

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be careful when they talk about voting and prohibiting people from voting.

Chairman van den Berg distributed a copy of Section 21 of Chapter 75-464, Laws of Florida (received & filed) entitled, "Conflicts of Interest Prohibited" and discussed same. He suggested this language could be modified to add "without prior disclosure."

Mr. Tucker stated that this should be broader than just voting. He said there are numerous incidents where a commissioner will not participate in the vote but will be a part of the discussion and sometimes heavily participate in it.

The Chairman said that sometimes elected officials try to influence the review by staff. He stated an elected official should not do anything to gain the advantage - whether it is an attempt to influence the staff's recommendation or comment when the item comes to a vote; and the conflict should be declared.

Upon inquiry by the Chairman, Attorney Yurko advised the Statutes require a maximum of 15 words for the ballot title and a maximum of 75 words for the ballot summary. She further advised there is no limitation of the number of words that actually go into the charter. Discussion ensued.

Upon inquiry by the Chairman, all members in attendance **agreed** to the prohibition of officials from influencing the outcome of something that will benefit them personally or a member of their family either by influencing staff or by voting.

Mr. Maloy discussed enforcement and stated an independent ethics board can also provide education and give opinions. He

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said the ethics board could be somewhat modeled after the State's where they would have an investigator to compile the information.

The Chairman reviewed a hand-out (copy received & filed) of Alachua, Hillsborough, Palm Beach, Sarasota, and Volusia Counties' charters regarding ethics.

Discussion ensued with regard to County employees working on County campaigns for compensation. Mr. Maloy stated that this item goes beyond what he originally proposed and he would like to see this addressed as a separate issue.

Discussion resumed on enforcement and Mr. Maloy reiterated his proposal for an independent ethics board.

Mr. Tucker questioned if the State Attorney's Office would be able to enforce ethics if it is included in a County ordinance.

Attorney Yurko reviewed the Statutes, advising it appears the State Attorney is required to prosecute. She distributed and reviewed a copy of a portion of the Orange County Code (received & filed) regarding enforcement. She also distributed and reviewed a copy of a portion of the Seminole County Code (received & filed) referring to punishment per Section 125.69 F.S.

Chairman van den Berg suggested directing the BCC to create an ethics board that would provide education and issue opinions, but have the State Attorney's Office conduct the prosecution.

Mr. Tucker stated he believes it really muddies the water to have a citizen review board on ethics and he would rather have the State Attorney do the prosecution.

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The Chairman further suggested having a general provision, unrelated to the specific addition, which says violations of charter provisions and county ordinances are punishable under Section 125. Then it is not tied to the ethics provision. He asked Attorney Yurko to draft language (in the 75 word limit summary) that the BCC would, by ordinance, adopt this language so that it could be enforceable by the State Attorney. He said this item will be presented Monday to the full CRC.

Attorney Yurko advised a funding stipulation for the State Attorney should be included.

The Chairman reiterated that there could also be an advisory ethics board (appointed by the BCC) that would issue opinions and promote education.

After discussion, it was determined that the investigation of these violations would also be done by the State Attorney's Office and their bill submitted to the County. The Chairman suggested including that the BCC would be directed to enter into a contract with the State Attorney for reimbursement of any expenses incurred in the investigation and prosecution of suspected violations, allegations and charges.

Attorney Yurko stated she thought that would work.

Discussion ensued regarding limiting gifts. Mr. Maloy stated his proposal is limiting gifts to \$25.

Ms. Dietz questioned why should there be any gifts allowed.

Upon inquiry by Mr. Tucker, Acting County Manager, Don Fisher, advised under the County Employee Handbook, if a

Christmas basket comes in, it must be placed in a common area for everyone to share.

Mr. Tucker stated he has no problem with gifts up to \$25.00.

Attorney Yurko suggested the following language: "Said ordinance shall include, at a minimum, provisions and enforcement mechanisms which substantially addresses the following (exceptions as deemed reasonable, necessary and appropriate by ordinance)." The Chairman suggested adding "no gifts" and then include the language read by Attorney Yurko. He also said they could also have a prohibition for anyone giving anything to family members of an official in the expectation of receiving favorable treatment in a matter pending before the official. No one voiced **any objections** to this language.

Mr. Maloy addressed auctions, proposing the language in Section "e" of his draft (copy received & filed).

Ms. Dietz stated she does not agree with this language.

Mr. Tucker gave the example of tax certificates being purchased by the Tax Collector and his family. Discussion ensued.

Chairman van den Berg suggested that instead of dealing with all auctions, just deal with the tax sale certificates. He stated language could be included to say that at tax sales, no one related to anyone employed by that agency (including the Tax Collector) shall be allowed to bid. He said family would be defined as anyone related by blood or marriage.

Mr. Maloy said he would rather have it apply to all general auctions; however, if it is the consensus to have only tax certificates, he would support that.

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Mr. Tucker agreed that this prohibition only applies to tax certificates.

Ms. Dietz said she did not agree with the language; and the Chairman noted that the **majority consensus** (by a four to one vote) is to go with the prohibition on tax sale certificates.

Upon inquiry by Mr. Maloy, the Chairman clarified that this language would be separate from the conflict ordinance.

The Chairman recessed the meeting at 8:10 p.m., reconvening it at 8:15 p.m. this same date.

Mr. Maloy reviewed his proposal for regulations dealing with lobbyists, stating that Seminole County deals with multi-million dollar contracts for services, construction of buildings, purchasing property and rezoning issues. He believes that transparency is a good thing. He said he also believes the public has a right to know when lobbyists are involved in an issue and are trying to use influence to get these proposals through. He gave an example of awarding the bid for the new Criminal Justice Center. He further said he is asking for disclosure and simple registration in advance of issues and prohibition of officials acting as paid lobbyists within the County (municipalities). He added that he believes that puts the city in a precarious position.

Ms. Dietz stated she has a problem with this because that would be limiting the pool of people who would run for office. She said she does not have a problem with registration and disclosure; but disagrees with prohibiting elected officials from lobbying other entities.

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Chairman van den Berg expressed that he is in opposition to registration because, in his opinion, it only creates a lot of paper work and it is the ultimate exercise in futility. He said lobbying is unavoidable.

Ms. Dietz asked what would be the cost of this. Whereupon, Mr. Maloy advised generally, it is just filling out a form that would be on file in the County Manager's office for public review.

The Chairman stated he does not believe this will be enforced and, therefore, it will not make a difference. He added that he does not see that it has made a difference in Orange County whatsoever.

Mr. Tucker said he does not believe the elected officials should be paid to lobby on behalf of a private client in front of other jurisdictions. He added that the times he has seen it done, it is blatant.

The Chairman polled the members and the **majority consensus** (with Ms. Dietz in opposition) agreed to include a prohibition of elected officials lobbying other entities within the County. This would be for their tenure only.

With regard to registration of lobbyists, Mr. Maloy and Ms. Dietz **agreed** to do same; and the Chairman and Mr. Tucker **opposed** it. Mr. Tucker stated this consensus will be reported to the full CRC.

Upon inquiry by the Chairman, the **unanimous consensus** was to require disclosure of ownership of land that is under consideration for rezoning, to be purchased by the County, and for special exceptions.

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Discussion ensued with regard to limiting campaign contributions and employees working campaigns for compensation.

Mr. Maloy stated he would like to see more information on the employees working campaigns.

The Chairman proposed the following language: "Employees of BCC and Constitutional Officers may not render services in aid of electing a county official for compensation."

Mr. Maloy said he would need to study this as he does not have an opinion on it at this time. Whereupon, the Chairman announced that the **majority consensus** is to bring the proposed language dealing with campaigning for compensation forward to the full CRC.

With regard to campaign contributions, Attorney Yurko advised that State Statutes limit contributions to \$500 and it appears the other counties get around that by saying you cannot accept more than \$200 or whatever the amount is.

Chairman van den Berg stated this is not a burning issue with him.

Mr. Tucker voiced opposition to this; and Mr. Maloy suggested letting Mr. Furlong bring this issue forward.

Mr. Maloy commented that normally when there is campaign finance reform, it makes it harder to unseat an incumbent.

Attorney Yurko asked for direction on the disclosure of travel expenses.

Chief Deputy Clerk, Bob Lewis, addressed the Board to explain that from a practical standpoint, the travel expenses are not readily identifiable for a member of the public.

Mr. Maloy stated it seems to him this should be made public either through the BCC agenda or elsewhere.

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The Chairman commented that they would almost need an amendment that would require the Clerk to publish this information.

Upon inquiry by the Chairman, Mr. Lewis stated the Clerk would not be able to do this for the other Constitutional Officers. He advised that it would probably be best if the Clerk's Office reported this information to the Board via the Clerk's Report.

The Chairman stated that he believes this should be done.

Mr. Fisher advised the cost of travel is established in the County's budget. He said he could get with Mr. Lewis to see how that information could be recovered before the CRC makes a decision on this.

Attorney Yurko stated that after Mr. Lewis and Mr. Fisher report back to the CRC, there could be something that could be a recommendation to BCC and not put into the charter itself.

Upon inquiry by Attorney Yurko, the Chairman clarified that the first issue on disclosure is voting when an official has an interest and the potential of influencing the outcome before it comes to a vote. He further clarified that the requirement is no official will attempt to influence staff on a matter that is pending before his agency or vote if the matter would provide financial gain to the individual or any member of his or her immediate family. Official means county commissioner or constitutional officer.

Attorney Yurko reviewed the following prohibition directives: (1) Lobbyists would pertain only to county commissioners; (2) Purchase of land pertains to county commissioners only; (3) Employee campaigning for compensation would pertain to county commissioners and all constitutional

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officers; (4) Tax Sales pertains to the tax collector, all tax collector employees and any relatives related by blood or marriage; (5) No gifts pertains to county commissioners and all constitutional officers; and (6) Disclosure of conflict of interests pertains to county commissioners and all constitutional officers.

The Chairman adjourned the meeting at 9:02 p.m. this same date.