

# MINUTES



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MINUTES

No one had any additions or deletions to the minutes of the last meeting.

Ms. Dietz entered the meeting room at this time.

Motion by Mr. Boyko, seconded by Mr. Miller, to approve the minutes of April 17, 2006, as written.

Chairman Tucker stated if there are no dissensions, the minutes stand approved as circulated.

ETHICS

Chairman Tucker asked Mr. Maloy to give the report of the Ethics Subcommittee in the absence of Vice Chairman van den Berg. The second draft (copy received and filed) of "Charter Amendment Regarding Ethics 2" prepared by Ms. Yurko was distributed. The minutes of the Subcommittee meeting held on April 24, 2006, were also distributed.

Mr. Maloy stated the subcommittee met and went through the outline he had submitted and there were quite a number of changes. He said they have now the latest copy of the charter amendment. This is an amendment, if passed by the citizens, directing the County Commission to write an ordinance that would have these points in it at a minimum, and they could add to the ordinance. He began with review of the subitems a through f under Ordinance Guidelines, and he and Ms. Yurko explained how the members arrived at the wording presented and discussed the items with the full Commission members.

Mr. Horan entered the meeting room at this time during the discussion of subitem a.

During the discussion of subitem d, it was clarified that "County" office should be included in the language..

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During discussion, Mr. Maloy stated the aspect of registering lobbyists was removed, but he still thinks that is a good idea; and he would like to reserve the right to bring that back as a separate item.

Vice Chairman van den Berg entered the meeting during discussion of enforcement and the obligation of the State Attorney's Office.

Mr. Furlong stated "relative" in paragraph b needs to be defined and he would like to strike paragraph c altogether. He questioned if the official is included in the prohibition of campaigning in paragraph d. Discussion ensued.

Motion by Mr. van den Berg, seconded by Mr. McMullen, to adopt in concept and carry forward, subject to additional refining, Items A, Ordinance Requirements; C, Enforcement; and D, Conforming Changes.

Under discussion, Mr. Furlong questioned if they needed to have Item D as written or strike that and have Ms. Yurko come back with something specific. He asked if they needed to be voting on this item now.

Ms. Yurko stated she thinks it is helpful to her that the Commission members understand there are some cleanup items that have to be done to the charter to make this all work.

Ms. Johnson discussed under enforcement her concern that if this is made too easy, it could be prohibitively expensive or if too hard, it may not be enforceable.

Chairman Tucker advised Mr. Furlong that the State Attorney's Office would determine which complaints to investigate and prosecute.

Mr. van den Berg called the question.

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The **vote on the motion** was taken with all members voting AYE with the exception of Mr. Lovestrand, who voted NAY.

**Motion** by Mr. Maloy, seconded by Mr. van den Berg to approve subitem B(a), No County Commissioner shall, during the term of his or her office, accept compensation from a third party principal to communicate with an elected official of any municipality in Seminole County in order to influence any future action of that official in his or her governmental capacity.

Under discussion, Ms. Yurko explained the purpose of the term, "principal," is in that section.

Mr. van den Berg suggested saying "another person or entity other than Seminole County."

Mr. Lovestrand questioned why they are interfering with the municipalities. Ms. Yurko explained this is getting to the issue of the County Commissioners acting as independent paid lobbyists.

Ms. Yurko recommended changing this item to read, ". . . compensation from a person or entity other than Seminole County . . ."

Mr. Maloy **amended** his motion to substitute the language by Ms. Yurko. Mr. van den Berg **seconded the amendment**.

Mr. Maloy stated this is a friendly amendment and he doesn't think they need to vote on it.

Under discussion, Mr. Furlong said maybe they should first approve Item B, Ordinance Guidelines, and then go through each of the provisions under that.

Mr. Maloy stated that would conflict with the motion on the floor.

Mr. Horan said he thought they should refine the language in Items A and B before addressing subitems a through f. He

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explained he would rather use the word, address, so they don't direct with the ordinance certain things but address certain issues.

Mr. Miller said it makes sense what Mr. Horan says and he doesn't object to going back.

Mr. van den Berg stated he would **withdraw** his second to the motion if Mr. Maloy withdraws his motion.

Mr. Maloy **withdrew** his **motion**. He said with regard to the original motion, this is moving the process and they would go to public hearings for public input and there could be wording changes.. He doesn't think they should hammer out everything here tonight.

Upon inquiry by Chairman Tucker, there were no objections to go back to revisit Items A, C and D on separate motions.

**Motion** by Mr. van den Berg, seconded by Mr. Horan, to adopt item A, Ordinance Requirements.

Under discussion, Mr. Horan said he thinks they should say "establish a code of ethics" instead of "establish an enhanced code of ethics." Discussion ensued.

**Motion** by Mr. van den Berg, seconded by Ms. Ohab, to move approval of Item A, Ordinance Requirements.

**Motion** by Mr. Horan to amend the main motion and strike the words, "an enhanced" and substitute "a."

Chairman Tucker called for a second to the amended motion without response, whereupon, the **amended motion died** for the lack of same.

The **vote was taken** on the **original motion** with all members present voting AYE with the exception of Mr. Horan who voted NAY.

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The Chairman went to discussion of Item B, Ordinance Guidelines.

Mr. Horan said his problem with this is that it is limiting. He said take out the words "incorporate the following" and substitute "address."

Mr. van den Berg suggested taking out reference to enforcement mechanisms because they are not a part of subitem b. He amended the wording to read, "Said ordinance shall include, at a minimum, provisions which contain the following prohibitions." Discussion ensued.

**Motion** by Mr. Furlong, seconded by Mr. Horan, to **amend** the language to read, "Said ordinance shall include, at a minimum, provisions which address the following:"

Under discussion, Mr. Furlong **withdrew** his **amendment** to the motion, and Mr. Horan **withdrew** his second.

Chairman Tucker stated the motion is on the floor which includes prohibitions. Further discussion ensued.

**Motion** by Mr. Furlong to **amend** the language to read, "shall include provisions which prohibit the following:"

Mr. van den Berg **accepted** that **amendment** to the motion and Mr. McMullen **seconded** the amendment. Discussion ensued.

Mr. Horan explained he was trying to make the prologue as broad as possible so they can include issues that are not prohibitive in subitems a through f, or more if they want.

Ms. Yurko stated if they keep that language and just say prohibitions and requirements, then they have covered this situation with subitem e, which is not a prohibition. She suggested amending the language to read, "Said ordinance shall include, at a minimum, provisions which contain the following prohibitions and requirements."

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Chairman Tucker stated, if there are no objections, all the motions and seconds on the floor will be withdrawn. No objections were voiced.

Motion by Mr. Lovestrand, seconded by Mr. McMullen, to accept Attorney Yurko's recommended language with regard to Item B.

Under discussion, Mr. Horan said he liked the motion, except for the word, "contain," and that should be "address."

Vice Chairman van den Berg said he didn't like the word, "address"; he thinks that loses the affect.

All members present voted AYE.

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Chairman Tucker recessed the meeting at 8:04 p.m. and reconvened it at 8:12 p.m. with all members present except Mr. Triplett and CRC Attorney Yurko.

Motion by Commissioner Maloy, seconded by Mr. van den Berg to approve item C, Enforcement.

Mr. Lovestrand asked if the State Attorney decided to prosecute, what could he do. He said they have not defined if it is a felony or misdemeanor; and there are still no teeth in this.

The Board put on hold the discussion of the motion until Ms. Yurko returned to the meeting.

Mr. Triplett returned to the meeting room at this time.

The Board had general discussion. Ms. Yurko returned to the meeting room at this time.

Mr. Lovestrand asked what are the existing laws today that the State Attorney can use if they say an official has violated the code of ethics. He asked what is the penalty.

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Ms. Yurko answered that basically a criminal misdemeanor has to be punishable by a fine or incarceration. The CRC could give him direction. She said the subcommittee wanted to be somewhat subtle about that.

Mr. van den Berg said there is provision of law that is already connected to this.

The vote on the motion was taken with all members present voting AYE.

Motion by Mr. Maloy, seconded by Ms. Johnson, to approve Item D, Conforming Changes.

Under discussion, Ms. Dietz asked if the specifics will be put in this, and Ms. Yurko answered yes.

Mr. Furlong asked if that is the case, do they want to vote on it now or wait, and Chairman Tucker said to vote on it.

The vote was taken with all members present voting AYE.

Motion by Mr. Maloy, seconded by Mr. McMullen, to approve subitem B(a) with amended wording, "compensation from a person or entity other than Seminole County," and striking the words, "third party principal."

Mr. Furlong stated he disagrees with Mr. Maloy's interpretation.

Ms. Dietz stated her objection was that they're starting to limit the pool of available people.

Mr. Maloy stated his intention has to do with county commissioners directly.

Ms. Johnson recommended inserting the wording, "to personally communicate."

Mr. Maloy stated he would have no problem with the proposed amended wording.

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Mr. Triplett stated he agrees with a lot of this, but he does not like this item and will not vote for it.

Mr. Horan said the way this is worded now is limiting. A lot of things could go wrong with it. He added that he will probably vote against it. Discussion ensued.

Mr. van den Berg said he thinks a motion to table would be a good idea to allow them to develop the concept.

Upon inquiry by Mr. Horan, Chairman Tucker said he has been told that this is a problem.

Mr. Furlong called the question, and Ms. Ohab seconded that.

The vote was taken to call the question with Mr. McMullen, Mr. Miller, Mr. Lovestrand, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy, Mr. Furlong and Ms. Ohab voting AYE.

Mr. Horan, Ms. Johnson and Mr. Triplett voted NAY.

Upon Mr. Maloy restating his motion, Ms. Yurko said she thinks the discussion was very productive and uncovered a problem that would capture more than was intended, so the motion with "third party principal" may be better.

The vote was taken on the main motion with Mr. McMullen, Ms. Johnson, Mr. Tucker, Mr. Boyko, Mr. Maloy, Mr. Furlong, and Ms. Ohab voting AYE.

Mr. Horan, Ms. Dietz, Mr. Miller, Mr. Lovestrand, Mr. van den Berg and Mr. Triplett voted NAY.

Motion by Mr. van den Berg, seconded by Mr. Miller, to adopt subitem B(b), with the following changes: "a person related to the Official by blood or marriage,: changed to "a relative of the Official (as the term "Relative" is defined by Florida Statutes), nor shall. . ."

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Under discussion with Mr. Horan, Ms. Yurko **added** to the motion, "as per Florida Statutes, Chapter 112," as it may be amended and replaced from time to time.

Mr. van den Berg and Mr. Miller accepted the **additional wording to the motion**.

Mr. Furlong said this provision is fraught with qualifications, particularly with the last part. He offered a **substitute motion** that "no Official or a relative of a Official as defined by Florida Statutes, Chapter 112, shall accept gifts greater in value than \$25."

Mr. van den Berg said to add to that exceptions for inter-family gifts.

Mr. Furlong explained his intent is trying to get something that controls what the elected official is going to get. He said as presented, the provision would not do anything.

Mr. Lovestand **seconded** the **substitute motion** for discussion.

Under discussion, Mr. Horan said he doesn't have a problem with the language requiring some kind of proof of intent. He thinks they should make the prosecutor prove the gift was intended to influence the outcome of a particular official act.

Mr. Lovestrand said he would prefer to see something like what Mr. Furlong said.

Mr. van den Berg gave an example and said he would dread the idea of someone trying to give gifts to a spouse, etc.

Chairman Tucker said this keeps it in line with what is reasonable and enforceable.

Mr. Lovestrand **withdrew** his **second** to the substitute motion.

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Mr. Miller stated he seconded the original motion and he's in favor of it.

Mr. Furlong asked what is the purpose of having exceptions as deemed reasonable, necessary and appropriate.

Ms. Yurko answered that concept came from her review of the Seminole County's Code of Ethics.

Mr. Maloy said originally his proposal did have the \$25 gift limit. It got massaged by the subcommittee and it came out like this. The main thing is they are asking the voters to take a look and do they agree with it. He thinks it is pretty clear they are addressing gifts.

Chairman Tucker said he thinks that was the overall prevailing philosophy. This opens it up in a broad fashion and if the members want to get more restrictive they can.

**Motion** by Mr. Furlong to **amend** the **main motion** to read "accept a gift greater in value than \$25, when said gift . . .;" and strike everything after the words, "with respect to any matter."

Chairman Tucker called for a second to the motion without response, whereupon, the **motion died** for the lack of same.

The **vote was taken** on the **original motion** with all members voting AYE, with the exception of Mr. Furlong who voted NAY.

**Motion** by Mr. Furlong, seconded by Ms. Dietz, to not approve subitem B(c), Neither the Tax Collector of Seminole County, nor any employee of the Tax Collector's office, nor any Relative of any such persons shall directly or indirectly bid on any tax certificate sales.

Under discussion, Mr. Maloy explained to Mr. Lovestrand why this item was changed from the way it was originally proposed. Mr. Lovestrand said he would rather see something like

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disclosure in this. He said even an auctioneer can buy in his own auction. He is only allowed one bid in the official auction and he has to disclose it. He asked why not just have disclosure.

**Motion** by Mr. Horan, seconded by Mr. Furlong to call the question.

The **vote was taken** to call the question with all members present voting AYE with the exception of Mr. Lovestrand, who voted NAY.

The **roll call vote** was taken on the motion to not include subitem B(c) with Mr. Horan, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Furlong and Mr. Triplett voting AYE.

Mr. McMullen, Mr. Lovestrand, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy and Ms. Ohab voted NAY; whereupon, the **motion failed** for the lack of a majority vote.

**Alternative Motion** by Mr. Maloy, seconded by Mr. Lovestrand, to state a prohibition on participation of Officials or Relatives defined by State law in any county agency auction.

Under discussion, Mr. Maloy **amended** the **motion** to say "county agency auction over which they oversee." Mr. Lovestrand accepted and seconded the amendment.

Mr. Horan said he doesn't understand what they are trying to prohibit. Discussion ensued.

Mr. Tucker said he would vote against this motion because he would like to see the limited issue implemented and if they want to see it expanded, at some point that can be done.

**Motion** by Mr. Horan, seconded by Mr. Furlong, to call the question.

A **roll call vote** was taken to call the question, with all members present voting AYE.

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

Mr. Horan, Ms. Dietz, Mr. Miller, Mr. Furlong, and Mr. Triplett voted NAY.

**Motion** by Mr. Maloy, seconded by Mr. McMullen, to approve the subcommittee's recommendation for subitem B(c) including the same definition of "Relative" as defined by State law.

Mr. van den Berg made an **amendment** to the motion stating "nor any Relative of any such persons shall be permitted directly or indirectly to bid on sales of Seminole County tax certificates. Mr. Maloy and Mr. McMullen **accepted the amendment.**

Mr. Miller said he is opposed to the motion. He thinks it was part of a political campaign when the Tax Collector ran for office. Whereupon, Mr. Maloy said this is not personal, but was the subcommittee's recommendation.

Mr. Horan stated he has a problem because he doesn't understand why they are addressing difficulties that don't seem to exist.

Mr. Lovestrand said if they don't do this, he would like at least that if the Tax Collector or his relative is going to purchase a tax certificate, that it be disclosed. That is why he would have to be in favor or offer another motion to have it disclosed. Discussion ensued.

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

Mr. Horan, Ms. Dietz, Mr. Miller, Mr. Furlong and Mr. Triplett voted NAY.

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**Motion** by Mr. van den Berg, seconded by Mr. McMullen, to adopt subitem B(d), No employee of an Official, and no employee of Seminole County government shall render services for compensation in order to aid in the election of any Official who is running for office.

Discussion ensued. Mr. Horan stated no one has indicated to him that this is a problem. Vice Chairman van den Berg said from what he has been told, there is a problem.

Chairman Tucker advised Mr. Horan that this is a problem and it is costing the taxpayers. Discussion continued.

A **roll call vote** was taken on the motion with all members present voting AYE.

Mr. Tucker left the meeting room at this time and Mr. van den Berg assumed the duties of Chairman

Ms. Ohab also left the meeting room at this time.

Vice Chairman van den Berg asked for a motion to approve subitem B(e) with deleting the first five words in the first line and substitute the words, "Each applicant."

**Motion** by Mr. Maloy, seconded by Mr. McMullen, to approve subitem B(e), as amended, by Vice Chairman van den Berg.

A **roll call vote** was taken with Mr. McMullen, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Lovestrand, Mr. van den Berg, Mr. Boyko and Mr. Maloy voting AYE.

Mr. Horan, Mr. Furlong and Mr. Triplett voted NAY.

Vice Chairman van den Berg suggested changing the first line of subitem B(f) to read, "No official shall attempt to influence . . ."

**Motion** by Mr. Maloy to approve subitem B(f) with the change stated by Vice Chairman van den Berg.

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Mr. Horan asked for an additional amendment in the last line to read "private benefit" or "personal benefit."

Mr. Maloy accepted that amendment and further amended subitem B(f) to read, "No Official shall attempt to influence in any way the outcome of any matter coming before his or her agency which, if approved, would inure to the personal benefit of the Official or his or her Relative, pursuant to Chapter 112, Florida Statutes."

Mr. Tucker returned to the meeting room at this time.

Mr. Miller **seconded** the **motion**. Discussion ensued by Mr. Lovestrand.

Mr. Furlong left the meeting room at this time.

Mr. Lovestrand explained an attorney's interpretation that if you're part of a large group, it is not a conflict even though you may benefit as a large group. He said he sees a little problem with the law with what they are trying to do. He said when you're part of a large group, you don't get the benefit alone. If it is a small group, it could constitute a conflict.

Mr. Horan advised Mr. Lovestrand that he thinks with the language they put in, that eliminates the "gotcha" aspect.

Mr. Furlong returned to the meeting room at this time.

A **roll call vote** was taken with all members voting AYE with the exception of Mr. Lovestrand, who voted NAY.

Mr. Furlong left the meeting room at this time.

Mr. Tucker assumed the position of Chairman at this time.

#### NEXT SCHEDULED MEETING

**Motion** by Mr. Horan to have a subcommittee on the audit.

Whereupon, Chairman Tucker said he thought that had already been done. Mr. Maloy said the direction before was for Ms.

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Johnson to work with Ms. Yurko on the audit committee. Chairman Tucker asked if anyone else wished to work on the audit committee. He said Ms. Ohab had to leave, but she is a CPA. The **consensus** was for Ms. Johnson, Ms. Ohab, and Mr. van den Berg to be on this committee, with Attorney Yurko attending.

Chairman Tucker advised Ms. Yurko they will have to meet before next Monday night. He said at the meeting on Monday, May 8, 2006, 6:30 p.m., he would like to have the audit committee, financial function and comptroller issues for discussion. He said that will be the bulk of what they have to do. At the end of that meeting, if there is enough time, Mr. Maloy can bring up his issue on lobbyists or the CRC can meet the following Monday, May 15, 2006. They can put in all the issues including the campaign issue by Mr. Furlong at that meeting as this will be the cleanup meeting.

Mr. Maloy clarified that the issues voted on tonight will go to the public hearings for public input. Vice Chairman van den Berg said he thought the motions were for that. The **consensus** of the CRC was that the issues would go for public hearings.

Ms. Yurko discussed when the subcommittee could meet and suggested Wednesday at 6:30 p.m. Chairman Tucker asked Ms. Johnson to work that out with the subcommittee.

Chairman Tucker recessed the full meeting of the CRC at 9:47 p.m.

Ms. Johnson, Mr. van den Berg and Ms. Yurko remained to discuss when the subcommittee could convene. Their **consensus** was for a meeting on Wednesday, May 3, 2006, with the time to be decided after making contact with Ms. Ohab. After further consideration, Ms. Yurko said she thinks they should set the

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time for 6:30 p.m. Wednesday evening to allow enough time for noticing the public. The **consensus** was for that time. Mr. van den Berg asked Ms. Yurko to contact Ms. Ohab.

The meeting was adjourned at 9:53 p.m.