
CHARTER REVIEW COMMISSION

MINUTES OF MAY 30, 2006

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The minutes, as circulated, were approved by unanimous consensus of the Board.

Local Voter Control over Vacancies
for Elected Officials

Mr. Maloy said he has spoken with Ms. Yurko and she has brought forth the 1975 Supreme Court opinion regarding Sarasota County, where the Governor was asking for clarification if he still had the power to appoint the Tax Collector, since there was a vacancy due to his death. It is somewhat a different situation where the Commission appointed the Tax Collector; there was not a special election. He also talked to Brevard County and they said the wording is there and they are prepared to use it, but they have never had to do so. If necessary, Brevard County plans to stand by their wording. He understands there is some legal limbo in the wording. If voters pass the wording, it would appear on the Charter, but since it deals with conflicts in State law, the State law would supersede it. There could be a question as to whether the Governor would still appoint so there could be a potential legal battle down the road. One option, if they continue, is to put this on the ballot and at the same time, ask the State legislators to clarify the language with revision to any confusing wording in the Constitution. The proposal, as it stands, is the wording that is the same in Brevard County's Charter, with the shortening of the time from one year to 270 days before an election. He said he spoke with the Supervisor of Elections before the meeting and he is supportive of doing the elections, but there is a cost involved. He still thinks the concept of local control is a great idea. It happens in municipalities all the time, but there is this question as to whether charter counties have the same right as the local cities.

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Ms. Yurko advised she spoke with Brevard County Attorney Scott Knox today and he confirmed that there has not been a test yet. The language is clearly, facially valid. She also spoke with Attorney Allen Watts last week, who successfully defended Seminole County's charter provision on the rural lands amendment last week. She stated there is a provision in the State Constitution that says, "when not otherwise provided by the Constitution, State and County Officers' vacancies shall be filled by appointment." It specifically does not address municipal officers. It specifies that State and County vacancies will be filled by the Governor. The Constitution defines what a vacancy is. There is a specific provision in the Constitution that allows legislative vacancies to be filled by election, but it does not address county vacancies.

Mr. Miller entered the meeting at this time.

Ms. Yurko said provided in the package (copy received and filed) is the advisory opinion to the Governor where there was a provision in the Sarasota County Charter that was invalidated based upon the Constitutional requirement that it is the Governor that is supposed to fill this vacancy. There is a section in the Statutes that mirrors what's in the Constitution, although there is a provision in Chapter 125 that says county charters are supposed to say how vacancies are filled for county officers. Seminole County's Charter says, like many others, that vacancies shall be filled in accordance with State law. The bottom line is that the language drawn from the Brevard County Charter will be facially fine. If it were ever used, however, it could create a Constitutional test case. The Constitution is pretty specific about how they address this issue, and the Supreme Court's interpretation was similar to her

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read of it. She said if the CRC feels strongly that they want to create a constitutional test case, this is probably the way to do it.

Mike Ertel, Supervisor of Elections, addressed the Commission to advise the price tag for a countywide election, depending upon when it would take place, would be approximately \$425,000. He said if this amendment were to pass, he would in ensuing years ask for his budget to be increased by \$425,000 at an incrementally larger number to put the money in escrow so funds would be available in case there was an election. He advised the Commission that the State would fully reimburse for any multi-county office election; but the County voters would foot the bill for a local election, unless it would fall on the same date of another county-wide election.

Mr. Lovestrand entered the meeting at this time.

Mr. Maloy noted that one opinion is 31 years old. He asked Ms. Yurko if there was another Attorney General opinion or could she go back to the Supreme Court with the wording because it is different from what Sarasota County had. He asked if there were a way in this process they could ask for them to take another look at it.

Mr. Furlong entered the meeting at this time.

Ms. Yurko stated she could ask for an Attorney General's opinion, but she was not sure how long that would take, and she thinks it would be difficult to meet the deadlines. In order to get a Supreme Court advisory opinion, she thinks they have to have an actual case at issue, which they wouldn't have.

Mr. van den Berg stated he doesn't know that they are interested in a test case, but are interested in pursuing this only if it is consistent with the Constitution.

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Ms. Yurko stated her opinion is that this is constitutionally suspect. She would be concerned about it, and the additional research and investigation she has done only confirms that.

Mr. Miller stated if their legal counsel thinks this is suspect and it will cost \$425,000 of taxpayers' money, he wonders why they are doing it.

Motion by Mr. Miller, seconded by Ms. Dietz, to withdraw the Local Voter Control over Vacancies Amendment.

Under discussion, Mr. Maloy asked since this is scheduled as a public hearing item, wouldn't they want to have input before withdrawing the amendment.

Chairman Tucker stated he could advise the public that the Charter Commission is not recommending this item.

Mr. Harris stated firstly, the amendment is constitutionally suspect; secondly, the election would cost \$425,000 or more; and thirdly, in order to execute that, they may end up in court for hundreds of thousands of more dollars, so what is to be gained. Discussion continued.

Mr. van den Berg suggested they vote on the motion, and if the motion carries, leave the item on the agenda for public discussion if there is any. At that time, they can explain what has been done previously and see whether some ideas are forthcoming that would cause someone to reconsider.

A roll call vote on the motion was taken with Mr. Horan, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Harris, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Ms. Hammontree and Mr. Furlong voting AYE. Mr. McMullen, Mr. Lovestrand and Mr. Maloy voted NAY.

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Mr. Tucker reviewed the procedures for the 7:00 p.m. public hearings. The consensus of the Commission was that they were satisfied with the procedures as reviewed.

Mr. Yurko said it might be helpful to open and close the public hearing for each resolution to clarify that each discussion is a separate public hearing.

A representative of the Press entered the meeting room at this time.

Chief Deputy Clerk Bob Lewis entered the meeting room at this time.

PUBLIC HEARINGS

Chairman Tucker convened the public hearing at 7:00 p.m., with all Charter Commission members present with the exceptions of Ms. Ohab and Mr. Triplett, who were absent. He announced that this is the first of three public hearings.

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

Chairman Tucker introduced himself and other members of the Charter Commission and announced the procedures for the meeting.

The proof of publication, as shown on page _____, for this meeting's scheduled public hearings was received and filed.

Chairman Tucker advised the other public hearing dates are June 14 and June 29, 2006 at 7:00 p.m. and the additional date of July 12, 2006 has been scheduled if the need arises. He explained that the Resolutions approved by the Charter Commission will be placed on the General Election ballot for voter consideration. This evening, the Charter Commission will receive public input on seven resolutions that are being proposed by the Charter Commission.

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Ms. Yurko stated she has provided a packet (copy received and filed) of resolutions that have corrected scrivener's errors pursuant to Mr. van den Berg's edits. These are shown with underlines and strikethroughs. She will be working from these copies.

Resolution No.1

Ms. Yurko read that Resolution No. 1 is proposing amendment of Article II of the Seminole County Home Rule Charter to provide a method for setting salaries of County Commissioners and to set limits on increases thereto; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the amended language as shown on the handout (copy received and filed).

Robert Webster, 3435 Holliday Avenue, addressed the Commission to state he thinks the Charter is abundantly clear that the salary for the Commissioners shall be by ordinance. What they have been operating under is Chapter 145, which prohibits members of charter counties to set their salaries based on that. He said the BCC have never complied with the law with regards to setting salaries, because they have been operating like an administrative form of government rather than a county manager form of government. He said he thinks there is a lot of merit in what the Charter Commission is attempting to do. It looks like they are looking at a pay scale going up and not down. He stated the county commissioners are charter commissioners and are very limited in their ability. He said there have been a multitude of things that have been wrong in the Charter since it was adopted.

No one else spoke in support or in opposition.

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Speaker Request Form for Mr. Webster was received and filed.

Chairman Tucker closed the public input.

Mr. Maloy questioned if the resolutions would be tweaked to put in reasons why the Charter Commission is proposing the amendment.

Mr. Yurko said that could be done, but she copied the forms from the last two rounds of Charter Commissions and they had the generic "whereas" clauses.

Mr. Maloy asked if the resolutions could be embellished a little. He said, to him, there are some important parts missing from the resolutions. He said as most people read this resolution, it looks like they are increasing salaries, whereas, the reality is it is putting in accountability and limits the growth of the salaries.

Chairman Tucker said the Commission has been meeting since September and have had 16 meetings or subcommittee meetings on these issues, and the minutes of the meetings, as well as the charter itself, are on a specific web site, so he thinks the CRC's information has been well distributed.

Upon inquiry by Mr. van den Berg, Mr. Maloy said he didn't know if they were going to put their rationale in the resolutions.

Mr. van den Berg said if the CRC wants to establish a predicate by saying what the existing practice is, which a lot of voters may not be aware of, they could work on that; but to get into an expression of the opinion of the members, he thinks that would be inappropriate in the resolution.

Mr. Furlong said he thinks before they add any editorial comment to any of the resolutions, they had better make sure it

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reflects what's here. He said the Commissioners' salaries proposed amendment hardly does any of what Mr. Maloy was suggesting it do. Discussion ensued.

Mr. Miller said it appears to him that the wording on the first page is why the CRC is doing this and Section 2.2 (C) is what they are doing. Mr. Maloy was referencing that why they are doing this was not included in the "whereas" clauses. He said perhaps there should be a change in the wording in the first paragraph to capture the essence of why they did it.

Mr. Horan stated whatever the CRC has discussed in the past he thinks is fully set out in the minutes and those minutes are a part of the public record. At this particular point, the "whereas" clauses have no substantive effect, as he understands it. What the public gets to vote on is the ballot language, which will be drafted by Attorney Yurko and the summary which has to be 75 words or less. He thinks it really would not advance the ball down the field quite a bit if they try to have a vote on what the "whereas" clauses should be. He thinks the distillation of what they have done is embodied in the proposed amendment itself. It might not be a good idea to start voting on whether a "whereas" clause should say x, y or z. His sense is that they have come to a consensus as to certain language and they really should not spend a lot of time on "whereas" clauses.

Chairman Tucker said he did not disagree at all with that and he is personally comfortable with what's in the resolution. He thinks the underlying point that some of the discussion is getting to is how it might be easier to explain these points to the public in trying to get them to vote for the points.

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Resolution No. 2

Chairman Tucker opened the public hearing for Resolution No. 2.

Ms. Yurko read that Resolution No. 2 is proposing an amendment to Article V of the Seminole County Home Rule Charter to include provisions which prohibit: (1) Certain lobbying by Seminole County Commissioners; (2) Bidding by the Seminole County Tax Collector or his or her employees (or their relatives) on tax certificate sales; and (3) Certain officials and their employees from accepting compensation for working in others' election campaigns; and which provide for definitions; for enforcement; for making conforming changes in the Charter to address coverage of the Constitutional Officers; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes as provided in the packet.

Mike McLean, 378 Woldunn Circle, addressed the Commission to express his support for Resolution No. 2, given the language the Commission had developed, and he said he would like to waive any other comment at this time.

Richard Creedon, 1172 Apache Drive, President of the Geneva Citizens Association, addressed the Commission to state the proposed restrictions in Subsection 1 should also apply to appointed members of County boards and staff employees above the clerical level. He said it is unfair and unrealistic to single out County Commissioners who are the only folks that ordinary citizens can hold directly accountable for their actions.

Upon request of Mr. van den Berg, Mr. Creedon clarified the meaning of his comment.

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Deborah Schafer, 1740 Brumley Road, addressed the Board to state she seconds what Mr. Creedon just said. She thinks it isn't just the elected officials that need to be held to a standard of ethics, but it's any appointed board or possibly employee. She said her comments also apply to Resolutions No. 3 and No. 4.

No one else spoke in support or in opposition.

Speaker Request Forms were received and filed.

Chairman Tucker closed the public input for Resolution No. 2.

Mr. Furlong asked if there were codes of conduct already for County employees.

Chairman Tucker stated it was thoroughly discussed at the meetings how a code of ethics applies to County employees; Constitutional Officer employees and some of the codes they have; and the appointed boards. He said the Charter does not address any appointed committees/boards. The people appointed serve at the pleasure of the County Commission and can serve under whatever criteria the County Commission wants.

Mr. McMullen asked if the Charter Commission could add language and ask the County Commission to come up with something for volunteer boards.

Chairman Tucker said they can do that. He stated the County Commissioners can set up whatever they want to do.

Mr. van den Berg said Section A says these prohibitions are to be included at a minimum. He thought their intention was to have a commission that would look at the whole scope or at least an ordinance that would address these specific provisions. He said they might consider whether to enlarge this so that without a specific charge, in preparation of the ordinance, that could

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be examined. He asked the County Manager whether the Code of Ethics for County employees bears on this or not.

DCM Don Fisher addressed the Commission to state this is addressed for employees in the Code of Ethics in several different forms. He read three related points from the Code.

Mr. Horan said he thinks they willingly went forward as a Board to address certain specific problems and needs rather than try to treat something structurally, and he thinks they know that. If there is another code of conduct, code of ethics, or a State ethics code that replicates what they have done or in some way duplicates or is inconsistent with what they have done, he thinks they are going forward with that knowledge.

Mr. Miller asked if it is a conflict of interest to use the influence of one's position for pay.

Mr. Fisher answered that any use of one's employment or position to influence something not in the purview of their direct job would be considered a conflict of interest.

Mr. Horan stated they all received a letter (received and filed) from the State Attorney indicating he may not have jurisdiction to enforce whatever the Charter Commission is doing. He asked Ms. Yurko what her reaction is to the letter, and if the provision added under Section C in the resolution is going to be sufficient. Also, he asked what is Chapter 27 referenced in this section.

Ms. Yurko advised she had discussions with Wayne Holmes of the State Attorney's Office and, pursuant to that discussion, made revisions to the language. She reviewed the three concerns the State Attorney had with the language. She advised her findings upon further researching Chapter 27. She said she thinks the way to address the State Attorney's concern may be in

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the way they draft the ballot language and the title. They can say the Board of County Commissioners shall be required to provide for enforcement mechanisms of this ordinance which may include some involvement by the State Attorney. Discussion ensued.

Mr. Horan discussed what the punishment could be for violation of the ordinance. Ms. Yurko stated she thinks it is up to the State Attorney whether he will prosecute or not.

Mr. Horan said it concerns him that the law enforcement officer of the County is saying leave him out of this. He would like to know if they are going to pass something that is going to be enforced.

Mr. van den Berg said he thinks they all share Mr. Horan's concerns, but they can't resolve it tonight. They have a proposed code of ethics being considered now by Clay County and it has a different type of enforcement mechanism. He suggested deferring this until the next meeting. In the interim, ask Ms. Yurko to either present this language or further enhanced language to State Attorney Wolfinger or come up with an alternative that could be put in writing and considered prior to the next meeting.

Ms. Yurko said she wants the Commission to be careful of having to hold a fourth public hearing. She distributed copies of the Clay County language (copy received and filed) and reviewed it. She said that language is making suggestions about ways to enforce it. She said she could add that language in now under Subsection C if the CRC desires that.

Mr. van den Berg suggested instructing Ms. Yurko to state the Charter Commission would like to continue to work with the State Attorney to see whether they can find language that would

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satisfy him and put this language in as an alternative, in the event either now or in the future, the State Attorney might have difficulty enforcing something. They would have a fallback position, and they would incorporate the concepts expressed in the Clay County prototype. He said that would ease Ms. Yurko's concerns about having a fourth public hearing.

Ms. Yurko explained that the point about misleading the public could be addressed in the way they draft the ballot language. That is something she can work with the State Attorney's Office on to give them the comfort level that the Charter Commission is not going to be suggesting to the voters that the State Attorney is the enforcer of this ordinance.

Ms. Dietz stated she thought the Commission had hashed over all this and they wanted to go with this type of enforcement as opposed to creating another entity that somehow had political influences. She said she would prefer that Ms. Yurko work with the State Attorney to see if there is some way she could craft some language that would satisfy him.

Chairman Tucker said he thinks that was the consensus of them all.

Mr. Horan agreed with Ms. Dietz and said the majority of the Commission was in favor of identifying specific provisions that would have to be in an ordinance. Although this was not his personal preference, he would join with Ms. Dietz in asking the State Attorney to see if there is some way they can salvage this amendment.

Motion by Mr. van den Berg, seconded by Mr. Horan, to make every effort to come to terms acceptable to the State Attorney to be the enforcing arm on the ethics provisions (Resolution No. 2), and failing that, or as an alternative to that, should there

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be difficulty in the future, that they rely on a provision similar to the Clay County provision.

Mr. Furlong said whatever they craft, he thinks there has to be some acknowledgment publicly in any charter amendment that there is cost associated with this and it will be recognized and provided for, so they don't end up with an issue the public votes for and the elected officials fail to fund it and nothing happens. Discussion continued.

Mr. Harris said the problem with what they have written is they have been very specific about a few things, but at the same time in Section A, they have a very blanket charge to the BCC that is not much different than Section E of the Clay County language. They are now left with an uncertainty on the enforcement arm and it isn't clear that there would be any enforcement. The State Attorney has already told them he is not interested in the way it is written.

Mr. Lovestrand said the State Attorney has always had the discretion on which laws they would or would not enforce.

Ms. Yurko stated she thinks the State Attorney's point is that he doesn't want to create the impression that he can be the enforcement arm because Chapter 27 doesn't go that far. She said she wants to make that clear so the CRC doesn't have unreasonable expectations--there is a limited window for this involvement. She thinks there is room to talk to the State Attorney's office and hopefully address their concern about a misperception that they are an enforcement arm by the way she drafts the ballot language.

Upon inquiry by Mr. Horan, Mr. van den Berg **accepted** the additional language by Mr. Furlong to the motion concerning funding.

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Mr. Horan also accepted the additional language.

Under further discussion, Mr. Miller asked if there are other options.

Upon inquiry by Ms. Dietz, Mr. van den Berg clarified that the Clay County language will only be included for Section C, Enforcement.

A roll call vote was taken with all members present voting AYE.

Chairman Tucker recessed the meeting at 8:08 p.m. and reconvened it at 8:19 p.m.

Resolution No. 3

Chairman Tucker opened the public hearing for Resolution No. 3.

Ms. Yurko read that Resolution No. 3 is proposing amendment of Article V of the Seminole County Home Rule Charter to add new provisions (1) to prohibit certain gifts to officials (or their relatives); (2) to prohibit attempts by officials to influence actions coming before their agency which could result in private gain to the officials or their relatives and providing for enforcement; for definitions; for exceptions; for making conforming changes in the charter to address coverage of the constitutional Officers with respect to the ethics provisions; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes as provided.

Mr. McLean expressed his support for this resolution and reserved his right to comment.

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Mr. Creedon stated as previously suggested for Resolution No. 2, this provision should also apply to members of appointed County boards.

Mr. Webster stated he takes exception to this resolution applying to Constitutional Officers because the Charter specifically excludes Constitutional Officers. He said passing any language to restrict their activity would be very redundant. It would serve no purpose and is just a waste of the Charter Commission's time.

Ms. Yurko responded that when she referenced the conforming changes in Section 3.1 and 2.2, they are specifically to modify the charter to specifically except out the case of the application to the Constitutional Officers. She said the CRC is recognizing the current restriction and would seek to modify it by this resolution. She explained the resolution is adding the Constitutional Officers to the purview of this restriction on ethics. She explained the Charter would have to be amended in multiple places to cover the Constitutional Officers. This would be the referendum that does that.

Mr. Webster said he thinks if they just abide by general law, they will be better off.

Ray Valdes, Seminole County Tax Collector, 104 Hillcrest Drive, addressed the Board to state in light of Ms. Yurko saying this item also applies to Resolution No. 2, he disagrees with the approach being proposed where they specifically list the Tax Collector of Seminole County. He said if the Tax Collector of Seminole County did any of the things suggested, there would be a new Tax Collector. He thinks they started off with the wrong statement. He said they can't include an officer who already under the Ethics Commission, under general law, is prohibited

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from doing what they are suggesting in the resolution should be prohibited now to employees and to relatives of employees. Mr. Valdes said he has been investigated by the Ethics Commission and the Attorney General of the points made and cleared of all of them. He believes the Charter Commission has been intentionally misled pertaining to the difference between a tax deed sale, which is conducted on the Courthouse steps by the Clerk of Court and has literally nothing to do with the office of the Tax Collector; and tax certificate sales, which are a public auction of from 50 to 80 people or more. He said, in addition, tax certificate sales are going internet. In that case, there is now worldwide participation on some of the tax certificate purchases. He said the Ethics Commission and Attorney General addressed that you can control what an employee does, and his office does that, but they have no jurisdiction on the relatives of employees. He stated that an elected official today cannot personally gain, nor has he personally gained from the allegations made and the statements that went one time in the Orlando Sentinel. He said this is a smoke screen of a political agenda that has no basis in reality. He stated this is an unnecessary item for the CRC to include and he thinks it is offensive to the office of the Tax Collector and he encouraged them to withdraw that one portion. He doesn't think the CRC or anybody else, when they get into constitutional law, can tell them they can control the relatives of any employee.

No one else spoke in support or in opposition.

Speaker Request Forms were received and filed.

Mr. Furlong stated the CRC had a lot of discussion throughout the course of all the hearings relative to putting things on the ballot that were redundant, and it seems at least

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a portion of Amendment #2 (Resolution #2), B.2, would be redundant. He asked if the Tax Collector is already prohibited from bidding on tax certificate sales, why would they need to put that into the Charter if that is already law.

Chairman Tucker advised that the public hearing for Resolution #2 has been closed and if Mr. Furlong wishes, he can bring that item back up at the end of the meeting.

Mr. Furlong said for Items #2 and #3, the term "relative" is used and referenced; and he thinks, for informational purposes, they should cite who that covers.

Motion by Mr. Furlong, seconded by Mr. Harris, to reopen the discussion on Resolution #2.

A roll call vote was taken with Mr. Horan, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Harris, Mr. van den Berg, Ms. Hammontree and Mr. Furlong voting AYE. Mr. McMullen, Mr. Lovestrand, Mr. Tucker, Mr. Boyko, and Mr. Maloy voted NAY.

No one from the audience spoke in support or in opposition to Resolution #2 at this time.

Chairman Tucker closed the public input and opened discussion by the CRC.

Mr. van den Berg asked Mr. Valdes to provide the CRC with the statute that makes it illegal for the Tax Collector to bid on a tax certificate. He also asked that Mr. Valdes provide each of them with a copy of the Attorney General's opinion, Ethics opinion, or any other information that would bear on the question of acquiring property by tax deed as opposed to a tax certificate. He thinks that will address Mr. Furlong's question as well his question.

Mr. Furlong stated he would also like to know if the Tax Collector's Office, either through an internal policy or code,

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or if the State also prohibits employees of the Tax Collector's Office from bidding on tax certificates.

Mr. Furlong discussed with Mr. van den Berg the tax certificate sales process and property auction process.

Mr. Lovestrand stated he would still like to hear the definition of "relative" and in what other cases have relatives been prevented. He said Mr. Valdes seemed to indicate they can't prohibit relatives.

Ms. Yurko explained the CRC has adopted the definition of "relatives" found in Chapter 112. She advised the jurisdiction of the Charter is that they can't do anything that is inconsistent with general law. The CRC is making revisions that more restrictive than general law and not necessarily inconsistent with it. She added that she doesn't see a problem with that.

Ms. Dietz asked if the CRC has the jurisdiction to restrict a relative of an employee of an official.

Ms. Yurko said she could research to see if that is an issue. She didn't see it as an issue when this first came up.

Under further discussion, Ms. Yurko said she could modify the language if the CRC's intent is not to prohibit a relative of an employee.

Motion by Mr. van den Berg, seconded by Ms. Hammontree, to advance Resolution No. 2 with the change in paragraph B.2. so that it relates only to employees and relatives of the Tax Collector.

Motion by Mr. Furlong, seconded by Mr. Harris, to amend the previous motion to strike the word "relative" from Section B.2.

Mr. Lovestrand spoke in opposition to the amendment to the motion, stating the attorney is going to look into this for them

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to see if they need to take off "relative" and just have the official as proposed by Mr. van den Berg. He said he would prefer to wait until Ms. Yurko comes back next week on this.

Mr. Furlong explained his reason for the amendment, stating he never felt comfortable with the provision and his personal opinion was that it was more political than policy. He said he would rather remove it until such time there is ample evidence to support that this needs to be there in the first place. He thinks by striking it now, it sends the correct message that this is not important; and it can be brought back at a later time, if there are some gaps in the coverage in the current policy and law.

Mr. Miller supported the comments by Mr. Furlong.

Upon inquiry by Mr. Miller, Mr. van den Berg said he did not accept the amendment as he thinks it is inconsistent with his motion.

Whereupon, Mr. Furlong withdrew his amendment to the motion.

Mr. van den Berg accepted the withdrawal of the amendment by Mr. Furlong.

Mr. Furlong offered a substitute motion, seconded by Mr. Miller, to strike Section B.2. entirely.

Mr. van den Berg said he would think they would see the law first and then decide that this is redundant and delete it rather than deleting it and then find out it is not prohibited by law, if that is the case.

Ms. Yurko stated she was not aware of anything in Chapter 112 that specifically addresses this issue. She thinks Mr. Valdes was referring to the generic prohibition on anything that

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inures to a special private gain and he's reading that to apply to this situation. Discussion continued.

Mr. Maloy stated the whole point why these ethics came up was the belief he brought forward that the ethics laws are not that tough in Florida. Part of the reason they're doing this is to strengthen ethics laws. He thinks it is prudent to follow Mr. van den Berg's course to get all the information. He recalls the newspaper article that mentioned there were hundreds of thousands of dollars in certificates purchased by an agent of the Tax Collector's mother. He thinks if they are going to make a decision, they need to have all the facts in front of them.

Mr. Horan stated what is important is that they take this issue and decide if it makes the charter better. Whether it was a political issue or not or whether someone won or did not win an election is not relevant.

Chairman Tucker said he thinks anything the CRC can do to have the public perceive the elected bodies, elected officials and appointed officials of this community are being governed more closely in keeping with what they would like, he thinks that is a good thing, and it is moving them forward. His personal opinion is that this is a good thing for Seminole County.

A roll call vote was taken on the substitute motion with Mr. Horan, Ms. Dietz, Mr. Miller, Mr. Harris, and Mr. Furlong voting AYE. Mr. McMullen, Ms. Johnson, Mr. Lovestrand, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy and Ms. Hammontree voted NAY, whereupon the substitute motion failed for the lack of a majority vote.

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

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Ms. Yurko asked for clarification on the motion to make the revision to "relative" to limit it to relatives of the Tax Collector.

Mr. Horan said that motion got lost.

Mr. van den Berg said they will consider that at another meeting.

Mr. Harris asked Ms. Yurko to research that and find out if there is something in the law to determine if the CRC is asking for something that would be contrary to general law or an Attorney General's opinion.

Resolution No. 4

Chairman Tucker opened the public hearing for Resolution No. 4.

Ms. Yurko read that Resolution No. 4 is proposing amendment of Article V of the Seminole County Home Rule Charter to provide new requirements of full disclosure of ownership of property which is the subject of land use approvals in Seminole County, Florida; for enforcement provisions; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes as provided.

Chairman Tucker stated the public hearings are now closed for Resolutions No. 1, No. 2 and No.3.

Mr. McLean expressed his support for Resolution No. 4 utilizing the language developed by the committee.

No one else spoke in support or in opposition.

Speaker Request Form was received and filed.

Chairman Tucker closed the public input.

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Mr. van den Berg clarified, for the Record, that Ms. Yurko is under the same instructions on enforcement for this Resolution as with Resolutions No. 2 and 3.

Mr. Harris asked if in Part A of Section 1.5, is it the intent to require identification of not only the principals in the general partnership but every name of every investor in the limited partnership also. Discussion ensued.

Mr. van den Berg said it would be a simple matter to identify the interest. For example, if there was less than a 1% or 2% interest, it would not need to be disclosed. The CRC could pick a number and write that in. For example, they could say a fractional interest representing less than 1% could be excluded.

Mr. Furlong said they probably need to have someone take a look at this because as he is reading the amendment now, anything not traded on a national exchange, all true parties and interest would have to be provided. Discussion ensued.

Motion by Mr. Harris, seconded by Mr. Lovestrand, to reword the amendment (Resolution No. 4) to include the parenthetical expression, "other than entities which are traded on a national exchange or a minority interest of 2% or less."

A roll call vote was taken with all members present voting AYE.

Resolution No. 5

Chairman Tucker opened the public hearing for Resolution No. 5.

Ms. Yurko read that Resolution No. 5 is proposing amendment of Article V of the Seminole County Home Rule Charter to provide for adding a new section which includes the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and

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Supervisor of Elections within the scope of internal audits conducted by the person designated by the Charter to perform audits; for internal audit by the Clerk of Circuit Court if no such person is designated in the Charter to perform internal audits; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes as provided.

Mr. Webster reaffirmed his position that the Charter does not have any authority over any constitutional officers and this is more political. He said to him it is rather disgusting for anybody to think of changing it because the Constitutional Officer that's charged with doing that is the Clerk of the Circuit Court. Essentially, the CRC is trying to change a constitutional provision by ordinance.

Ms. Schafer asked who, through the Charter, is designating the person to perform audits.

No one else spoke in support or in opposition.

Speaker Request Forms were received and filed.

Chairman Tucker closed the public input on Resolution No. 5. He asked Ms. Johnson to answer the question by Ms. Schafer.

Mr. Furlong noted that Resolutions No. 5, No. 6 and No. 7 are all related and that's how it works.

Whereupon, Ms. Yurko stated the order of the Resolutions should be reversed when they do the ballot. She thinks that will make it easier to explain in summaries so that there isn't confusion.

Ms. Dietz requested for the other public hearings that the order be switched. Ms. Yurko said they can make Resolution No. 5 to be Resolution No. 7.

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Chairman Tucker asked DCM Don Fisher to change the order for the next meeting.

Resolution No. 6

Chairman Tucker opened the public hearing for Resolution No. 6.

Ms. Yurko read that Resolution No. 6 is proposing an amendment of Article II of the Seminole County Home Rule Charter by adding new sections to provide that the functions and duties now prescribed by the Florida Constitution to the Clerk of Circuit Court which relate to the Clerk's duties as auditor of County funds be transferred to a newly created auditor position serving at the pleasure of the Board of County Commissioners; for powers, duties and qualifications of said auditor; for the Clerk's duties which relate to custodian of County funds to be transferred to the County Manager; for conforming changes to Section 2.2(e) and 3.1 of the Charter; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes.

Mr. Webster stated he wants to remind the members that he served on the original Charter Commission and there was a promise beyond any doubt that the Charter would not attempt to interfere with the duties of the Constitutional Officers. He said this is a direct impact on them and he thinks it is politically inspired and doesn't have any legal merit whatsoever. He stated this is offensive. He said he would much rather have an auditor that is elected by the people than somebody appointed by a legislative body of the County who is operating under the guise of being county commissioners.

No one else spoke in support or in opposition.

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Speaker Request Form for Mr. Webster was received and filed.

Chairman Tucker closed the public input.

Mr. Lovestrand brought up an issue his predecessor called him about concerning the transfer of financial functions and auditing. He said Florida Statute 125.855 outlines the duties of the County Manager and he read same. He stated that general law provides that these functions be given to the County Manager, but they are only giving three-fourths to the County Manager by not giving the auditing portion. He said the reading of the statute seems to be that the County Manager should be in charge of the auditing also. He said what they're doing seems to be in conflict with the Florida Statutes.

Mr. Horan discussed whether the term "officials" should be capitalized in Section 2.5(A)(2) and defined.

Ms. Johnson suggested removing the words, "and officials."

Ms. Yurko said she thinks that would be a very good fix, as this amendment was not intended to bleed into the other amendments and connote any reference to the Constitutional Officers. This is intended to be stand-alone.

Motion by Ms. Johnson, seconded by Mr. Horan, to strike the words, "and officials," from Section 2.5(A)(2) of Resolution No. 6.

A roll call vote was taken with all members present voting AYE.

Mr. Maloy explained he missed the meeting when it was discussed and he asked what is the rationale of the auditor serving at the pleasure of the County Commission and not being under the County Manager.

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Ms. Johnson advised there was concern that there would be an increased perception of independence if the County auditor reported directly to the Board of County Commissioners versus a chief financial officer under the County Manager.

Mr. Maloy said he has concerns about giving the County Commission the checkbook. He thought they had talked about separating this out in two amendments.

Ms. Johnson further advised it was considered to be too difficult to pull out the finance function into its own separate amendment at the time; and too confusing to have internal auditing to remain with the Clerk and not the finance functions.

Resolution No. 7

Chairman Tucker opened the public hearing for Resolution No. 7.

Ms. Yurko read that Resolution No. 7 is proposing an amendment of Article II of the Seminole County Charter to provide for adding a new section to create a volunteer advisory audit committee; for setting forth the powers, duties, terms and qualifications of said audit committee; for conforming changes to Section 2.2(3) and 3.1 of the Charter; for a referendum; for an effective date; and for submission to the Board of County Commissioners of Seminole County, Florida. She reviewed the changes as provided.

Mr. Webster stated he is suggesting that the CRC is encroaching on Constitutional Officers without any authority and totally ignoring the agreement that the Constitutional Officers be left alone. He said he thinks it is offensive and he feels badly that there doesn't seem to be any discussion among the group, but it seems they are all aligned up to carry the ball through. He thinks there are valid grounds that he stated that

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there is no authority for the Charter to interfere with the Constitutional Officers. He knows this has been politically inspired, but trying to jerk the responsibilities of a Constitutional Officer and amend it by an ordinance of the County is legally insane.

No one else spoke in support or in opposition.

Speaker Request Form for Mr. Webster was received and filed
Chairman Tucker closed the public input for Resolution No.

7.

Mr. van den Berg referred to the third page, paragraph C of Resolution No. 6 and said the word "County" should be replaced by "Seminole County Auditor." He said it would be more appropriate to have the title of the auditor to be the Seminole County Internal Auditor as opposed to the County Auditor. He said he would like to delete the wording "audit by the County." If the public hearing would be reopened, he would like to change that designation. Instead of saying they are creating an internal auditor, change that to say they are creating the Seminole County Internal Auditor or Internal Auditor for Seminole County.

Motion by Mr. Horan, seconded by Mr. McMullen, to reopen the public hearing for Resolution No. 6 for the purpose of discussion.

Chairman Tucker asked Ms. Yurko if she could amend Resolution No. 6 to read Seminole County Internal Auditor

Ms. Johnson advised in Resolution No. 5, the wording is "the person designated by the Charter to perform audits." She expressed that she is concerned that if one resolution fails, the internal audit functions would remain under the Clerk and it would not be appropriate to say County Auditor. She explained

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the wording needs to be more generic because the function may remain with the Clerk, depending on the outcome of the amendment.

Under discussion, Ms. Yurko recommended going back to the CRC'S original idea to have the Board of County Commissioners appoint the members of the audit committee. Discussion continued.

Mr. van den Berg said if he were a constitutional officer, he would be upset that he would have no voice in appointing the members of the audit committee.

Ms. Johnson said she wouldn't be opposed to having the alternate scenario in having the Constitutional Officers have the ability to appoint members to the audit committee for a greater representation of Seminole County and those internal dealings.

Mr. Horan said this creates a checks and balance as well. If they can get rid of the alternative language and make this simpler, he would be in favor of that.

Ms. Yurko advised Mr. van den Berg the CRC could give the option to the Constitutional Officers to appoint and if they choose not to, then have it default to a vote of the majority of the BCC.

Ms. Johnson said she would support that.

Following further discussion, Mr. van den Berg suggested adding the word "Auditor" to read "County Auditor" to Section C in Resolution No. 7.

Mr. Horan further suggested in Section 2.5 in Resolution No. 6 to read "Creation of County Auditor" (deleting Internal Auditor) to make it consistent with County Manager and County Attorney.

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Mr. Furlong noted, regarding comments by Mr. Webster relative to the propriety of their actions and the constitutionality of same, that in each amendment proposed that deals with changing the Charter's prohibition about including Constitutional Officers, there is a provision that would change the Charter to allow it. He thinks it is important that the record reflect that the Charter Commission did not ignore these things and they are not unaware of it. There is a different philosophy with this Charter Commission than the one he served on, and they feel in certain areas, the Constitutional Officers should be bound by some provisions of the Charter including some of the new ones now being proposed.

Mr. Harris stated he thinks it behooves the CRC, in as much as that particular issue was brought up a number of times, to answer it for and on the behalf of the electorate of Seminole County.

Mr. Horan stated he agrees with Mr. Furlong about the legality of bringing within the gamut of these proposed constitutional amendments the Constitutional Officers. He said the CRC also discussed whether this was a good idea and he thinks the minutes reflect that all 15 members gave a good, wide-range discussion of all the issues related to that. He said if there is some problem with legalities, he would presume someone from the offices of the Constitutional Officers would bring that to their attention at the public hearings. No Constitutional Officer except Mr. Valdes has spoken to them.

Ms. Johnson stated there is a lot of precedent in other Florida counties for some of the changes this CRC is incurring. This is not the first time someone has attempted to remove

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responsibility or employ greater oversight of constitutional officers.

A roll call vote was taken on reopening the public hearing for Resolution No. 6 with Mr. Horan, Mr. McMullen, Ms. Dietz, Mr. Miller, Ms. Johnson, Mr. Harris, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Mr. Maloy, Ms. Hammontree and Mr. Furlong voting AYE. Mr. Lovestrand voted NAY.

Chairman Tucker closed the public input for Resolutions No. 6 and No. 7.

Upon inquiry by Ms. Yurko, Chairman Tucker advised the consensus was to direct her to revise the makeup of the audit committee to be at the option of the Constitutional Officers with the default to the Board of County Commissioners.

Resolution No. 8

Chairman Tucker advised that Resolution No. 8 had been advertised; however, at the 6:30 p.m. regular meeting, the CRC voted not to proceed forward with this amendment.

Chairman Tucker opened the meeting for public input at this time.

Mr. Webster stated he doesn't think they can pass an ordinance, irrespective of how much they want to do it, if it is in conflict with general law. He said general law already covers this subject.

Mr. van den Berg advised Mr. Webster that the Chairman said the CRC decided not to proceed with this. Whereupon, Mr. Webster said he is totally opposed because it is already covered by general law.

No one else spoke in support or in opposition.

Speaker Request Form for Mr. Webster was received and filed.

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Chairman Tucker closed the public input for Resolution No. 8.

NEW ISSUES

Mr. Miller said a couple of times people talked about the fact that what the CRC is doing does not include appointees. He asked did it appeal to anyone that they need to change any of the resolutions to include people who are appointed to committees.

Chairman Tucker said the County Commission can do that at any time. They are all advisory boards. He said he would have no problem with it, but they are addressing something that's not in the Charter.

Mr. van den Berg said this is something that could be brought up anytime.

Mr. van den Berg expressed his regrets that he would not be present at the next meeting.

Chairman Tucker advised he also has "grandfather" duties in June.

Mr. Furlong said it may not be a bad idea to include appointed boards under some of the relative amendments. He would be concerned if they try to take in all the County boards. He thinks the public's concern would probably be for things like planning and zoning, variances, and perhaps code enforcement. He thinks it should be narrowly tailored.

Mr. Harris said he is not aware of any significant ethical violations that have come to light in the 25 years he has lived in this county. He thinks if they're unaware of a problem, then they ought not to go and search for a solution.

Ms. Dietz asked to do the renumbering of the resolutions.

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Mr. Miller noted that Resolution No. 5 is now Resolution
No. 7.

There being no further business to come before the Charter
Review Commission, the Chairman adjourned the meeting at 10:12
p.m., this same date.