



**MINUTES APPROVAL**

The September 15, 2011 CRC Minutes were presented for approval.

**Motion** by Tom Boyko, seconded by Regina Bereswill, to approve the September 15, 2011 minutes as submitted.

All members in attendance voted AYE.

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Chairman Coover advised that they do have the County Commission Chambers reserved for their next meeting on November 10. He explained that a question has been posed as to whether or not they want the meeting to be broadcast on SGTV.

Jeff Bauer entered the meeting at 6:35 p.m.

Chairman Coover requested a show of support from the members that would prefer to have the meeting broadcast on SGTV.

**No support** to have the meeting **broadcast** on SGTV was shown.

**OLD BUSINESS**

**Sharon Peters - Liaison to Commission**

Chairman Coover introduced Sharon Peters, who is with the County Manager's Office, and advised that she will be the CRC's liaison. He indicated that Ms. Peters has set up a web site for the committee. Ms. Peters demonstrated how to access the web site. She described the information contained on the site. Discussion ensued with regard to what will happen when questions and suggestions are submitted via the web site's e-mail address. With regard to the suggestions received through e-mail, Chairman Coover reminded the committee that they need to make sure they don't communicate with each other about their thoughts until they get to the meeting. He suggested that the members not forward and respond to the e-mails when they are sent out. He explained they could respond back to Ms. Peters and ask her

whatever questions they need to ask, but they cannot communicate their thoughts on one of those items to other members of the committee.

James Dicks entered the meeting at 6:41 p.m.

Robert McMillan asked if there was a link on the County's homepage for the Charter Review Commission page. Ms. Peters stated that she would check into that. Mr. Strickler stated that there probably should be a link for the sake of transparency.

Discussion ensued with regard to notices for public hearings. Chairman Coover stated he feels they should do some public advertising. Upon inquiry by Chairman Coover, the group agreed that they should publicize the next meeting in a reasonable way. Chairman Coover stated he will coordinate with Mr. Applegate and the County Attorney's Office so they get adequate press.

#### **Commission Attorney Selection Process**

Chairman Coover advised that a package (copy received and filed) was distributed to the committee members which includes a list of several attorneys. He explained that the County Attorney's Office has provided him with information that indicates there is no requirement for the CRC to do any kind of a process to choose an attorney; so they are free to do whatever they want, as far as hiring an attorney. At the last meeting they heard from a lot of committee members who expressed a strong desire to have an experienced attorney, which means someone who is familiar with representing charter review committees, familiar with writing ballot language and ordinance language, and familiar with defending them. As they saw from some of the information that they previously received, there

were some charter review amendments that were approved by the committee, passed on by the commission, voted on by the electorate and then overturned by the courts. He stated they need to get an attorney who knows what he or she is doing to make sure they don't run into that problem.

Chairman Coover stated there was communication between Mr. McMillan and the County Attorney's office that resulted in a list of names of persons who are qualified. Of the list of seven, one of them, GrayRobinson, is disqualified because they represent some Constitutional Officers. Chairman Coover advised that if anybody on the commission has an attorney that they feel is qualified to be considered, the committee is more than willing to hear about that. He stated that he plans on appointing a subcommittee of three members. He wants the subcommittee to handle the process of going through the attorneys, adding names if they feel inclined, getting whatever information from those firms that they think they need in order to make recommendations to the CRC. He would like the subcommittee to narrow the firms down to a manageable group of three to six firms or lawyers who can then come and make a presentation to the CRC. The CRC will make the final decision.

As far as timing goes, Chairman Coover stated that the subcommittee will be working between now and the November meeting; but he does not expect them to finalize that process and come back to the CRC in November at the public hearing. They might have some discussion and get a report from the subcommittee at the next meeting if nobody shows up to talk. He thinks they are probably looking at sometime in December or possibly January before they actually have presentations to the entire commission and decide. By that time, December/January,

they will have a pretty good feel about whether or not they need an attorney or not.

Tom Boyko described his concerns in choosing an attorney and what qualities he would like an attorney to have. Discussion ensued with regard to the process for choosing an attorney and the necessary qualifications a CRC attorney should have. Regina Bereswill indicated that she supports the Chairman's suggestion to appoint a subcommittee and recommended that Mr. Boyko and Mr. McMillan be on the committee. She suggested that the attorney they pick have not only government background, but also experience in charter review and defending charter review amendments.

Chairman Coover appointed Larry Strickler, Robert McMillan and Tom Boyko to the subcommittee. He stated that Mr. Strickler will serve as the chairman of the subcommittee. The subcommittee will report back to the CRC at every meeting. He clarified that the CRC expects the subcommittee to know which attorney will be present at the meetings, know that the attorney is experienced and know that the attorney has access to other sources of information and other attorneys in their firm that can help if a problem is not singular. While the subcommittee does not need to come back at the next meeting with a short list, he stated the subcommittee should be able to come back by the December meeting with a short list of firms (3 to 6) who can come and make presentations to the CRC.

Larry Strickler clarified that the two tasks that the subcommittee is being asked to perform are to help identify the process for selection and to develop a short list. He asked if there was something else that he didn't hear.

Chairman Coover stated that he thinks the process is pretty well defined; but he wants the members of the subcommittee to satisfy themselves that they have "vetted out" the attorneys, whether they are the six in the package or others that are qualified. From that list, he wants the subcommittee to cull it down to something that is manageable for the CRC, keeping in mind that they don't want all of the firms to go to any huge expense unless they are serious contenders in the subcommittee's opinion. Chairman Coover discussed the timing of this process and stated that he does not think it is imperative to have an attorney before January.

Mr. McMillan discussed receiving calls from people on the present list and stated he would like a policy that says, "Don't call us; we will call you to get information."

Chairman Coover stated that the subcommittee will need to come up with a mechanism for obtaining information that they need from the firms, making inquiries and not communicating with each other unless they are at a meeting. He asked Mr. McMillan to help the subcommittee with the rules with regard to that. Mr. Strickler stated that any information would need to be funneled through County staff to keep them from talking to each other. Mr. Applegate stated that he thinks that, at this point, his office has done everything that they can. He explained that his office was given the task of finding firms and attorneys that had governmental experience, preferably charter experience. He stated that he agrees with Mr. McMillan, that there are very few attorneys around that are out there as charter review commission experts who are not representing a local government or who are going to be conflicted out for some reason. He explained that his office contacted the names on the list given

to the CRC and asked if they would be interested in being considered as a possibility if the charter review commission hired an attorney, so time wasn't wasted if someone wasn't interested. The firms that his office contacted all said they would be interested. He advised that was the extent of their conversation. His office provided the background information. Discussion ensued with regard to conflicts of interest. Mr. McMillan stated that most of the local government attorneys in Seminole County will be representing other local governments in Seminole County which, to him, is a conflict.

Mr. Strickler left the meeting at this time.

Mr. Boyko stated he would not seek an attorney that is dealing with people in Seminole County and would prefer an independent who is out of the area.

Chairman Coover stated that he believes the subcommittee needs to make an inquiry of the attorneys that they consider that are out of the area about travel because a lot of firms won't charge for travel if they are statewide firms, but some will.

Chairman Coover suggested that if a commission member who is not on the subcommittee wants someone considered by the subcommittee, simply send the name to Ms. Peters and she will present it to the subcommittee at their next public meeting.

Mr. Strickler re-entered the meeting at this time.

Chairman Coover discussed the attorneys and their representatives contacting the CRC members to attempt to influence their decision and asked whether or not the committee would like not to be contacted. He would like to establish that this group, as a group, would like not to be contacted because they can make that known.

**Motion** by Mark Wylie, seconded by Regina Bereswill, that there will be no contact between the applicants and any member of the CRC other than those initiated by the subcommittee.

Under discussion, Chairman Coover stated that if a member is contacted by someone who starts to talk about this particular opportunity for their firm, he or she should end the discussion and say the CRC has agreed not to talk to an applicant until the public hearing.

All members in attendance voted AYE.

#### **POSSIBLE AMENDMENTS TO CHARTER**

##### **Review 2006 Topics**

Mr. McMillan explained there were nine items on the ballot last time and that six of them were put on by the Charter Commission. He stated that the County Commission did not like some of the Charter Commission's proposals so they put three on also. The County Commission sent out flyers on their proposals but did not send out information about the Charter Commissions' proposals. Mr. McMillan stated that if anybody is under the misimpression that there is not a conflict between what this Charter Commission may want to see happen or what the voters might want to see happen and what the County Commissioners would like to see happen, that pretty much sets it up. He stated that the Board itself was opposed to three or four of the Charter Commission's proposals and so proposed counterproposals, and he added that it was something of a mess.

Mr. Strickler stated that he believes the CRC should take a position on that matter. He believes the CRC should vote that if the County Commission has something they feel needs to be in the charter that is not there now, they should flow it through the CRC and not do it on their own. Mr. McMillan advised that

if legally there is something that needs to be in the charter that the Board believes needs to be in the charter, they can put it on the ballot directly.

Mr. Strickler stated that he thinks they need to make a statement to the County Commission. Mr. McMillan stated they could at least tender an invitation to the County Commission that they provide to the CRC any items that they would like to put on ballot for the CRC's review.

**Motion** by Larry Strickler, seconded by Imogene Yarborough, to state that if the County Commission has something that they believe needs to be in the charter that is not there now, the Charter Review Commission believes it is appropriate for that to be recommended through the CRC and not directly from the County Commission.

All members in attendance voted AYE.

Chairman Coover asked Mr. Applegate to indicate the best way to communicate this information to the County Commissioners. Mr. Applegate stated that he will communicate the information to the County Commissioners but the question would be whether or not the CRC could demand that of the Board of County Commissioners. Chairman Coover stated that it is not a demand; it is a request. Mr. Strickler stated that they are just saying they think it is appropriate. Further discussion ensued. Chairman Coover stated that he will meet with Mr. Hartmann and try to clearly communicate what the CRC's intent is and let Mr. Hartmann convey that to the Commissioners. Chairman Coover stated that what is being suggested is to simply let the CRC vet out what the Commissioners are thinking about presenting to the electorate; that is what they are here for.

Upon inquiry by Chairman Coover, Mr. Applegate verified that if the Charter Review Commission recommends a change, the BCC is obligated to put the matter to the voters.

With regard to prior topics from 2006, Mr. Boyko stated that one of his concerns was the audit that failed. They were trying to have an audit committee which failed. When they said they were going to appoint an audit committee, the Sheriff's Department was going to appoint a person that he wanted. The Supervisor of Elections was going to appoint a person that he wanted. To him, that seemed like a political plum. He explained that the internal audits that they have today, meaning people within the firm or within the department who are going to perform the audit now, doesn't sound right. He wondered about people within a firm or within a department who bring something up that they find, if that is going to be suppressed. He asked what the reason was, constitutionally, as to why it was knocked down.

Mr. McMillan explained that it all flowed back to the change in the duties of the Constitutional Officers. Some of the things could have stood without the others but the court struck it all. The main problem was changing the Clerk's duties. Mr. McMillan stated that under the state law and under the charter, you can take the Clerk and make her a County Officer. But apparently the way that they attempted to do that was to peel apart certain of her duties, and the local courts didn't like that. The court struck everything as a result of that. He advised if the CRC wants to get back into the auditing, they will need to have those people come in and explain it. He believes a charter amendment can be drafted that accomplishes the goal. This was one of those situations where

the mechanism that was chosen to accomplish the goal was flawed. If they want an independent audit committee, volunteer or otherwise, he thinks it can be done and believes some of the attorneys they have talked about would be able to show the committee how to get that done. There was a lot of discussion about audit responsibilities and the need for an independent audit commission. That all got tied in with the Constitutional Officers' issues which is why it became so politically controversial. Discussion ensued.

Mr. McMillan stated they could have done more than they did, but they tried to piecemeal it; and piecemealing failed. Mr. Boyko stated that the electorate was for it and they could see through the haze that that needed to be done. He stated that was an issue that he has thought about. They could introduce it maybe as something to be changed -- why internally and not separately and independently?

Mr. McMillan stated that ethics and audits were the two big issues.

Chairman Coover referred to Resolution 2006-R-177 (copy received and filed), which is the resolution that the last Charter Review Commission adopted, and advised that towards the back is Attachment 1, which is a list of all of the recommendations. He stated that he believes Mr. Boyko and Mr. McMillan have been talking about Ballot Questions 4, 5 and 6 which have to do with auditing and the lawsuit that ensued that found Questions 4, 5 and 6 (which were recommended by the CRC) failed from a legal constitutional standpoint. His suggestion would be to have a brief discussion about whether or not this commission wants to look back at those three questions as part of their diligence. He is not saying that they do it tonight.

He is saying is this something that they want to do. He thinks everyone understands that it was recommended by the commission, it was approved by the voters, but it was not done properly. He wondered if they, as a group, want to revisit that based on the outcome of both the election and the legal ruling.

Mr. Boyko stated that he would like to find out, on those issues, what percentage of the voters voted for it. He thinks that would be an important thing to know and it could give them direction on which way they would want to go. If the vote was close, maybe not; but if there was a big majority that said yes, that is something they might want to revisit.

Chairman Coover requested that Ms. Peters obtain the voting information for Ballot Questions 4, 5 and 6 for the next meeting.

Mr. McMillan stated that the other issue that he has concerns some of the things that passed last time that the voters absolutely wanted to have done. The statute and the charter amendments weren't challenged and actually went into effect, but they had to be implemented by the County Commission. The County Commission really didn't like those charter amendments, and they implemented them in ways that really didn't implement the intent of either the amendment or the electorate. He stated that he doesn't know if they want to look at those.

Chairman Coover asked Mr. McMillan to identify what items specifically he is referring to.

Mr. McMillan responded that the classic one was Amendment 4 on salaries. He knows that the people who proposed that last time will probably be here this time making that an issue. He explained that the County Commission's salaries are established by state statute.

Chairman Coover clarified that that item is Ballot Question 1 on Attachment 1.

Mr. McMillan further explained that the Charter Commission wanted to sever that connection, since the Seminole County Commission is one of the highest paid county commissions in the state. The CRC wanted to sever that connection so the Commissioners did not get automatic pay raises from the State. Therefore, they passed an amendment that said the County Commission had to establish their own salaries by ordinance, that they couldn't get any raises greater than the cost of living, and that they had to approve their salaries by ordinance at a public meeting basically every year.

With regard to implementation, Mr. McMillan stated that because of the way the amendment was written, it was left wide open to the Commission to establish how they wanted to do it. The Commission passed an ordinance that said they would get paid the same thing that the statute provided, which put right back into effect the previous situation, therefore negating the entire intent of the original charter amendment. While it was clear from his understanding that the people who were proposing this wanted a separate public hearing on pay raises for the Commission for establishing the salary of the Commission, all it said was that it would be adopted at a public hearing annually. So by ordinance, they folded it into the County's annual budget adoption; so it never really comes up for a vote individually at a public hearing. He stated that it pretty much totally negated the intent of the ordinance.

Mr. McMillan advised that he wrote the ordinance, and it complies with the charter amendment by virtue of what the charter amendment says. It certainly in no way complies with

the intent of the charter amendment and the way it was drafted and the intent of the charter commission when they proposed it, which was that the Board would have a public hearing on their salaries and any time they raised them.

Mr. Boyko stated that it goes back to the same thing he said before at last month's meeting, and that is why you need an attorney who is right there and knows how to get things in the right language.

Mr. McMillan stated that he believes the same thing had been done with the ethics ordinance requirement. What ultimately was adopted implementing it really didn't do anything towards the goal of the Charter Commission (who proposed it) or the voters (who passed it); and it just pretty much left things exactly the way they were before it was passed. While they are in effect, essentially they didn't change anything because of the way they were implemented. He doesn't know if the committee wants to look at that and maybe redraft them (since he thinks they will come up this time and the same people will be present) to implement the actual intent at the time and let the voters consider them again. Discussion ensued.

Mr. Strickler asked if what happened would have happened if there had been a more knowledgeable attorney working for the CRC. Mr. McMillan stated that one can draft an ordinance to comply and still make clients happy. He stated that it may be that no one is interested in those issues anymore, but he believes there are more issues than just the ones that got passed and then struck. He stated that is why he requested information with regard to the ones that got implemented, so the committee could do some judgment on whether the implementation actually complied in the spirit of the amendment that was

passed. He stated that he thinks in a couple of cases they really have not.

Mr. Bauer stated that he believes they will always get into those issues because they are dealing with ballot language; and he thinks if the language is so tight, from a legal perspective, the chances of it passing are going to decrease.

Mr. McMillan stated it would not be too hard to have required a separate public hearing, an advertised public hearing, rather than simply folding it into the budget and it winding up in some giant "we adopt the budget and everything that is in it," and somewhere in there is a line that says salary increase.

Upon inquiry by Chairman Coover with regard to how Ballot Question 3 was implemented, Mr. McMillan responded that item was a decent ordinance.

Chairman Coover advised that basically on Attachment 1, which is the last CRC's resolution, they have Items 1, 2, 4, 5, and 6; and Mr. McMillan has expressed in his opinion they might not meet the intent of the commission last time. His question to the group is does anyone want to dismiss 1, 2, 4, 5, or 6 from further consideration or do they want to leave them on the table.

Mr. Applegate advised that he needs to leave. He stated that with all due respect, when ballot language is proposed, that is the responsibility of the Charter Review Commission attorney. As County Attorney, if he feels the County Commission is not implementing the ordinance or the ballot language that was passed, his job would be to publicly tell the County Commission that they can't adopt an ordinance. He stated he does not know what happened six years ago or what the Board did;

but his view would be that it is the job of the County Attorney to say, "You can't do that because you are circumventing what the ballot and what the people propose under the charter."

Mr. Applegate left the meeting at this time.

Mr. McMillan stated that he thinks the ordinances that the Board passed complied with the charter.

Chairman Coover asked if anyone wanted to suggest that they eliminate the pay raises, the ethics, or the audit committee issues at this time or do they want to keep them on the table as potential discussion items. Chairman Coover stated that he is not looking for a vote but is looking for anybody that has strong feelings about not revisiting these things. He advised that the CRC is accumulating a list to work on; and if somebody has a strong feeling about dispensing with one of these items, they can have a discussion about it. Otherwise, right now they will stay on the list. He stated that everybody's homework will be to "bone up" a little on those items and try to get an understanding of what they are so when they discuss them at a future meeting, which will probably be in December or next year, they will be up to speed. **No objections were voiced.**

James Dicks stated that if there were any that the voters did not approve, unless they were written incorrectly for some reason, they should not be wasting the voters' time.

Chairman Coover advised that the issues with regard to audit committees that were Ballot Questions 4, 5 and 6 were overturned after being approved by the voters.

Mr. Dicks stated that should be readdressed in his opinion.

Chairman Coover stated that so far, those are still on the list. Nobody has said get rid of them. With regard to the pay raises and ethics, he stated that Mr. McMillan is questioning

whether they met the spirit of the CRC's intent at the last 2006 Charter Review. That would be the reason to leave them on for a further look. Chairman Coover stated that everyone heard what the County Attorney said and that he is telling the committee if they are clearly asking for something, that he is going to clearly convey to the Commission that that is what they want.

Mr. Bauer stated that he thinks this is premature at this juncture until they get public input, since there is probably going to be some of the people present that came out the last time who may have some of the same issues.

**Discuss Member Topics**

Chairman Coover asked if any of the members, at this time, have any topics to bring up that can be put on the list. He stated that no one will be foreclosed from bringing up topics in the future. No topics were discussed.

**NEW BUSINESS**

Chairman Coover asked if any of the members had any new business. No new business was discussed.

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Chairman Coover stated that the next scheduled meeting will be in the BCC Chambers downstairs.

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Mr. Strickler stated that they will set up a schedule for the subcommittee and let Ms. Peters know what that schedule is so it can be publicly noticed.

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There being no further business to come before the Commission at this time, the Chairman adjourned the meeting at 7:51 p.m., this same date.