



ITEM IV. A.

**BREVARD COUNTY CHARTER REVIEW COMMISSION  
PUBLIC HEARING SYNOPSIS MINUTES**

Thursday, July 1, 2010 3:00 P.M.

Cocoa City Hall  
Commission Chambers  
65 Stone Street  
Cocoa, Florida 32922

- I. Kendall Moore called the public hearing to order at 3:03 p.m.
- II. Mayor Mike Blake from City of Cocoa led the Pledge of Allegiance
- III. Roll Call: Kendall Moore, Chairman, District 1; John Porter, District 2; Bunny Finney, District 2; Duwayne Lundgren, Vice-Chairman, District 2; Dale Young, District 3; Jim Rosasco, District 3; Sue Schmitt, District 4; Robert Ludwiczak, District 4; Tom Jenkins, District 4; Frank Zilaitis, District 5 and Tres Holton, District 5

Commission Members Absent: Neta Harris, District 1, Ronald Bobay, District 1; Matthew Nye, District 3 and Martin Lamb, District 5.

Staff Members Present: Elena Scruggs, Administrative Secretary and Jacob Horowitz, CRC Attorney.

- IV. Approval of Minutes of Previous Meetings
  - A. June 17, 2010 Brevard County Charter Review Commission

**Lundgren/Schmitt – APPROVED, as submitted. The vote was unanimous, 9-0.**

- V. Reports
  - A. Chairman
  - B. CRC Staff Person
    1. Updated CRC Proposal Status 2009-10 distributed
  - C. Other Members

Kendall Moore – He stated that the members should have a copy of an e-mail response from Stockton Whitten along with the report that was requested by Carolyn Fausnaugh.

- VI. Public Comment (Speakers are limited to three (3) minutes after each agenda item)

Mayor Mike Blake – He introduced City of Cocoa's new councilman, Don Boisvert.

- VII. Public Hearing
  - A. Proposed Resolution No. 2010-001 – Preamble to the Brevard County Charter (Proposal #21)

No comments.

Kendall Moore closed the public hearing on Item VII. A.

- B. Proposed Resolution No. 2010-002 – Municipal Consent to Charter Amendment (Proposal #6)

Georgia Phillips – She stated that at the last meeting there was discussion about the confusion of the ballot language. She passed out new ballot language, which read: "Shall the Brevard County Charter be amended to require that county charter amendments approved after December 1, 2010, that conflict with, transfer or limit a municipality's service, function, power, or authority apply to that municipality only if the amendment is approved or consented to by a majority of voters in that municipality voting in a referendum?" She noted

that Attorney Horowitz was provided a copy earlier in the week. She also provided a letter from Alachua County stating that they put this on their ballot.

Robert Ludwiczak – He asked if this would require action on the CRC’s part to change the language.

Jacob Horowitz – He stated that it would. If the CRC would like to amend any of the existing proposals, it would require a majority vote.

**Ludwiczak/Lundgren – To approve the change of ballot language, read by Ms. Phillips.**

Bunny Finney – She asked if it was appropriate to vote before hearing from the public.

Kendall Moore – He asked if Mr. Ludwiczak and Mr. Lundgren would defer to the public before moving forward with a vote.

**Robert Ludwiczak withdrew his motion. Duwayne Lundgren withdrew his second.**

Mayor Carol McCormack – She is the Mayor in Palm Shores. She stated that they believe Home Rule authority should be preserved. The Home Rule Dual vote will only apply to new charter amendments that alter or limit municipal powers. It will not place any additional powers in the hands of elected officials. She stated that this is about the rights of their residents and the voters of this county to control their own destiny. She is asking that the CRC support their efforts to ensure that Home Rule for the cities and towns and place the provision before the voters on the November ballot. She mentioned that every city is united in their request to have this placed on the ballot. On behalf of the Town of Palm Shores, and the citizens she represents, she thanks the CRC for their consideration, and hope they will support this.

Amy Elliot – She is the acting City Manager for City of Melbourne. She agrees with Mayor McCormack’s statements. She mentioned that the Council of Melbourne took a position on this, and adopted a resolution, which was previously provided to the CRC. She stated that they firmly believe that the Home Rule concept should not be abridged by any county wide adoption of charter provisions unless specifically passed by a majority of the voters in Melbourne. She would like the CRC’s support.

Kathy Meehan – She is a Councilwoman from the City of Melbourne, as well as the President of the Space Coast League of Cities. She noted that they represent 16 cities in the Space Coast. She stated that they recognize that local self government is the foundation of American democracy. She mentioned that because the cities are the government closest to the people, they are truly of the people, by the people, and for the people. The most precious powers cities have are the Home Rule powers. All 16 cities have passed a resolution in support of Home Rule powers. On behalf of the Space Coast League of Cities, please support Resolution No. 2010-002.

Chris Chinault – He is the Town Manger for the City of Indialantic. He indicated the town’s support for Resolution No. 2010-002, and support for the proposed language change. They also adopted a resolution 09-05, in support of Home Rule.

Jackie Burns – She is the City Manager for the City of Indian Harbor Beach. She agrees with everyone’s statements. She mentioned that the City of Indian Harbor Beach adopted the Home Rule resolution, and asks that the CRC take into consideration their views.

Lisette Kolar – She is the Vice-Mayor for the Town of Grant-Valkaria. She stated that she is here on behalf of the residents and Town Council of Grant-Valkaria to voice their support for the Home Rule Dual vote charter amendment. She stated that their town adopted the resolution in support of Home Rule. She stated that they understand the majority of county charter amendments benefit all the towns and cities, and that it will only apply to those amendments that limit or alter the municipality home rule. She stated that they understand Brevard County is a diverse county, but what may be good for one community may not be good for another. They strongly believe that each town and city should have all the powers allocated to them by law so they can govern themselves at the local level. History shows that the Home Rule Dual vote charter provisions have been strongly supported by voters and other counties, and that its constitutionality can be affirmed. She stated that Grant-Valkaria has worked very hard since 2004 to obtain Home Rule. She noted that the residents overwhelmingly approved incorporation and supports the Home Rule Dual vote amendment. The Town of Grant-Valkaria asks that the Home Rule Dual vote amendment be placed on the ballot and brought before the voters.

Mike Blake – He is the Mayor of the City of Cocoa. He recognized City Manager, Ric Holt, Deputy City Manager, Dr. Brenda Fettrow, and Councilman Boisvert. On behalf of the City of Cocoa, they support the valid efforts of the CRC and also support and endorse the Home Rule Dual vote amendment.

John Porter arrived at 3:15 p.m.

**Ludwiczak/Lundgren – APPROVED, changes to the ballot language for Proposed Resolution No. 2010-002, as presented and read by Georgia Phillips. The vote was unanimous, 10-0.**

Kendall Moore closed the public hearing on Item VII. B.

- C. Proposed Resolution No. 2010-003 – Analysis of the Fiscal Impact of a Proposed Charter Amendment (Proposal #33)

No comments.

Kendall Moore closed the public hearing on Item VII. C.

- D. Proposed Resolution No. 2010-004 – Mechanism for the Repeal of the Brevard County Charter (Proposal #42)

Robert Ludwiczak – He asked if this was giving the public an opportunity to vote to include this option in the charter, but not an option to repeal.

Jacob Horowitz – He stated that was correct.

Kendall Moore closed the public hearing on Item VII. D.

- E. Proposed Resolution No. 2010-005 – Financial Report by County Manager (Proposal #52)

Kendall Moore – He mentioned that the CRC directed him to contact Mr. Ellis relating to the discussion on the time frame of reporting by the Clerk's office. He stated that everyone should have been copied on the e-mail correspondence from Mr. Ellis. He also noted that there is a report provided by the County Manager's office.

Robert Ludwiczak – He mentioned that the information provided by the Clerk's office had two dates; one dated in 2000, and the other dated 2008. He stated that the proposal calls for 90 days of preview of information, and asked if that was standard operating procedures.

Steve Burdett – He mentioned that there was a budget report from the Clerk's and the other report from the County Manager's Office. He stated that when he does the reports, it's normally a turnaround of 30 days of the period that was ended. He stated that he has not been actively involved with the County Manager's reports. He stated that the Board has their own Budget Office, which directly reports to the County Manager. He mentioned that the Clerk tries to work jointly with the Budget Office. He feels that the County Commissioners deserves some kind of financial information during the year to inform them of what's going on so they can make a decision. He stated that if the County Manager's Office would like the Clerk's office to participate and generate information, they will, but they have not been invited to.

Robert Ludwiczak – He concluded that no reports have been issued for the year 2009.

Steve Burdett – He stated that they have not been issued by his office.

Robert Ludwiczak – He asked if he was aware of any reports from the County Manager's Office for 2009.

Steve Burdett – He stated that there have not been any comprehensive reports, but there may have been individual reports.

Robert Ludwiczak – He stated that in view of that and Dr. Fausnaugh's proposal, where she is suggesting the report come out in 90 days; does he see a problem.

Steve Burdett – He stated that the report couldn't consist of completely audited information. He stated that it takes his office a considerable amount of time to gather information from the Board, and all the elected officials. He mentioned that the law requires these officers to submit revenue and expense information within 31 days to his office. His understanding of the law doesn't require the officers to

submit all the disclosure information, which is very comprehensive. They have to disclose liabilities from compensated absences, and contingent liabilities. It's not just financial information. He noted that considering the budget limitations and potential fiscal downgrades he doesn't see the report getting out in 90 days.

Robert Ludwiczak – He asked what his projection would be.

Steve Burdett – He stated that they are still shooting to get the report out March 30<sup>th</sup>.

Robert Ludwiczak – He mentioned that you are looking at six months before the report comes out. He asked what financial basis is the County Commission making decision on.

Steve Burdett – He stated that the point he's tried to make in the past is that the Board has a Budget Office, and the Board has them. If they want to see regularly issued comprehensive information on how their departments are operating, the County Manager can get with them and they will put a report together. It's his understanding that the new County Manager plans on doing this. He thinks it would be respectful for the CRC to speak with the County Manager to see what his plans are.

Jim Rosasco – He stated that he thinks the Board is getting tied down in the schematics. He thinks the purpose is to inform the public of where the county stands. He stated that we're getting bogged down waiting for a final audited report, and understands the problem with producing the report within 90 days, but to him the audit adjustment isn't that significant. He finds it difficult of the reluctance by county government to give the public information on where the county stands. He stated that it's unfathomable to know that a financial report hasn't been issued in a year. He thinks there should be something in the charter to enforce the people to report. He asked if we can get 95% of where the county stands within 90 days.

Steve Burdett – He stated that they could generate some information if the County Manager would work with them as to what they want. He stated that the Clerk is no longer the Budget Office. He stated that they have attempted to try and provide some information and there has been some reluctance for them to work with some departments. And out of respect, the County Manager is the budget person now. He doesn't want to step on toes. He understands that the public, as well as the Commissioners want to see some regularly issued financial information. He mentioned that it is accessible, but just needs to be told, and incorporated into the process so they can help. He stated that the communication incorporating them into the process doesn't exist as of today.

Sue Schmitt – She mentioned that the new County Manager informed the County Commission that he will be doing a financial report monthly. She thinks that we should ask the county if they have received any financial reports before voting at the next meeting.

Dale Young – He stated that the commission minutes specify that the County Manager would produce a weekly, monthly and quarterly report. He noted that in 2006 and 2007 there were very comprehensive financial reports by the current manager, and done by September 30<sup>th</sup>. He noted that each department has a monthly percentage on what's been spent. He agrees that the numbers are there, but you need someone to put them together.

Robert Ludwiczak – He stated that since it was mentioned that the County Manager would give monthly report, he assumes it will include data from all the departments, including charter officers. That being the case, he asked what the problem would be in getting a final report out in 90 days after the fiscal year.

Steve Burdett – He stated that the County Manager could issue a report within 90 days after the end of fiscal year. He thinks that would supplement the report that his office does. He noted that the information that is included in the report requires that they coordinate with all the officers and all the departments. They have to comply with general accepted standards, and coordinate that information with the independent auditing firm. The independent auditing firm has their schedule going through February. In order for the Board to change that, it could involve some money, and they could also put those requirements in the next RFP for auditing.

Robert Ludwiczak – He asked if the report was issued in January, and the final audit report is not done until January, then could there be a revised statement.

Steve Burdett – He stated that it could, but on unaudited information. It would be comprehensive, but not completely audited and an opinion issued by the auditors.

Robert Ludwiczak – He stated that it seems strange with a governmental entity as large as Brevard County, and the amount of money being spent, they would have a sense if money was overspent or under spent without having data provided.

Tres Holton arrived at 3:38 p.m.

Steve Burdett – He stated that one of the reports that Finance does for the Board is to compare all these different funds of the old year and what is anticipated to carry over into the next year. He stated that is also incorporated into the closing out at the end of the year.

Robert Ludwiczak – He asked if he was willing to state that Brevard County is symptomatic of all counties throughout the state of Florida in terms of reports issued six months after the fact.

Steve Burdett – He stated that is normal, but there are a few counties that estimate and they can get their report out within 90 to 120 days. It also involves a lot of cooperation from the other officers that become part of that report.

Robert Ludwiczak – He asked if this would be a proposal that would force other officers to comply.

Jacob Horowitz – He stated that it would put the burden on the county to contact them so they have the information they need to comply with the deadline.

Steve Burdett – He asked if the County Commission could mandate that those officers get the information in promptly.

Jacob Horowitz – He stated that the county could ask, but it would be difficult for there to be any penalty for the County Commission to impose on the other constitutional officers for failure to comply. He stated that they could put in formal requests so they have it within a certain time frame so they can comply with their charter obligations.

Steve Burdett – He stated that all the funds are closed out by the end of December, which enables them to inform them of their financial situation. He noted that the independent auditors don't come back with a lot of revisions to their reports. So they know how to tell the Board what their financial situation is so they can make tentative decisions.

Dale Young – He stated that he doesn't think we are looking for the certified annual report; it's a manager's report. If the manager makes use of his weekly, monthly, and quarterly reports then he shouldn't have a problem making a report. He mentioned that the CPA is the one that puts his name on the line when he certifies a report, but that is not what the proposal is about.

Kendall Moore – He stated that this board spent a lot of time discussing structure and changing. He is concerned based on what he hears that the County manages to budget and not actual. He stated that from a county management perspective he could start to predict where he is and what he's doing, but only relative to the budget. He thinks they could get things from Mr. Burdett, but can imagine how tough it can be to manage and not have an actual understanding as to where the county stands on a more frequent basis. He won't argue that there should be a system in cooperation. When you start talking about financial reporting and management, and start using the word forced compliance, that's a scary place to be. He asked how far of a delta they could get before the person that's in charge of managing the operations on a day to day basis just knows how far out of budget they may be with what the actual dollars are that exist. He is concerned where it's placed in the process and amount of information flow.

Duwayne Lundgren – He noted that the language only states that the County Manager will make a public presentation of the county's financial and operating results for the prior year to the County Commission after 90 days of the conclusion of the fiscal year. He mentioned that it doesn't say a final report or audited report. He stated that there has been plenty of testimony that the County Manager has enough information available after 90 days to make a presentation. He stated that you don't need additional language to have that presentation.

Carolyn Fausnaugh – She stated that as she has been reading the reports provided over the last few days; it has become more apparent that the county needs for the financial structure to be restructured. She understands the problems that Mr. Burdett is faced with. She feels that she needs to make it a point, because the CRC struggled with the issue, and was not able to come forward with a proposal. She implores the CRC and County Commissioners to examine the issue and do something. She mentioned that there are discussions of procedure to put in place of manuals that need to be developed, as well as

reconciliation that needs to be in documents, which are standard operating procedures that have been practiced since the beginning of her career in 1966. That means that the auditors, in looking at the closing and the difficulties in getting information and doing reconciliations, and documenting approvals, are raising issues that have been standard operating procedure by those trained in financial accounting for a long time. She thinks this county excels in too many things to be conducting their financial affairs in this way. She stated that the proposal before us is a minor proposal asking that there be discussions in public and more spotlight on the transactions that are supposed to be represented as budgeted. She is asking for the CRC to support the proposal and reconsider revisiting how things can be restructured.

Tom Jenkins – He believes we have an obligation to invite the County Manager or his representative to the next hearing to report from their perspective as what is done and what is anticipated. He noted that the Board was provided an e-mail from Mr. Tipton regarding his intentions to do monthly and quarterly reporting. He stated that through the county's financial management system, they have actual numbers on a daily, weekly, monthly basis. He mentioned that anybody that does financial reporting knows that a significant part of the report is forecasting in terms of what expenses you expect to have. He thinks it's important that you recognize that the internal audit that was a great concern to Dr. Fausnaugh was an audit of the accounting Finance Department. It wasn't an audit of the Board of County Commissioners. He stated that if there is a lack of procedures that's occurring in the county finance; all the constitutional officers are required to prepare their own financial report 30 days after the close of the fiscal year. County Finance takes those reports and consolidates them to create the CAFR, as well as adding the Board of County Commissioners financial information into that report. By law, County Finance has 180 days. He stated that five of the seven counties submit their CAFR around the same time as Brevard County. He stated that the County Manger stated in his e-mail that it shouldn't be construed as a final report; because once numbers are out there then you have to live with those numbers forever. He thinks that when you talk about putting the county on the same financial, you have to recognize there's a sizeable cost to do so. He mentioned that in Dr. Fausnaugh's comments it states that there might be some financial expertise that is lacking. He pointed out that the Sheriff's office has a CPA, and a certified government financial officer; the Property Appraiser has a CPA; Tax Collector has accountants on their staff; Supervisor of Elections uses the county Finance Department. Lastly, he pointed out that this coincides with one of the comments made by the Clerk as whether or not this needs to be in the Charter. If you look at Section 2.68 of the Brevard County Code of Ordinances, it states that the County Manager will prepare and submit to the Board, after the end of each fiscal year, a complete report on the finances and administrative service for the preceding year, and submit the manager's recommendations. He stated that could be amended to put a time frame on it, but it should be clear that it's not an audited certified final report.

Kendall Moore closed the public hearing on Item VII. E.

F. Proposed Resolution No. 2010-006 – Ethics in Government (Proposal #49)

No comments.

Kendall Moore closed the public hearing on Item VII. F.

G. Proposed Resolution No. 2010-007 – Citizens Recommendation to County Commission (Proposal #54)

No comments.

Kendall Moore closed the public hearing on Item VII. G.

The next meeting will be held on Thursday, July 8, 2010, at 6:00 p.m., located at the Government Center, Space Coast Room, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940.

**VIII.** Adjournment at 3:58 p.m.

Pursuant to Section 286.0105 Florida Statutes, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that, for such purpose, he/she will need to ensure that a verbatim record of the proceedings is made, at his or her own expense, which record includes the testimony and evidence upon which any such appeal is to be based. Such person may provide a court reporter, stenographer, or a tape recorder for such verbatim record. In accordance with the Americans Disabilities Act, persons needing a special accommodation or an interpreter to participate in the proceedings, the County's Manager's Office, (321) 633-2001, at least 48 hours in advance.