



ITEM IV. C.

BREVARD COUNTY CHARTER REVIEW COMMISSION

AGENDA

DECEMBER 3, 2009 6:00 P.M.

Brevard County Government Center
Florida Room, Building C
2725 Judge Fran Jamieson Way
Viera, Florida 32940

- I. Duwayne Lundgren called the meeting to order at 6:00 p.m.
- II. Sue Schmitt led the Pledge of Allegiance
- III. Roll Call: Neta Harris, District 1; Ronald Bobay, District 1; Duwayne Lundgren, Vice-Chairman, District 2; Bunny Finney, District 2; John Porter, District 2; Dale Young, District 3; Matthew Nye, District 3; Jim Rosasco, District 3; Sue Schmitt, District 4; Tom Jenkins, District 4; Frank Zilaitis, District 5 and Martin Lamb, District 5

Commission Member absent: Kendall Moore, Chairman, District 1; Robert Ludwiczak; District 4; Tres Holton, District 5

Staff Members present: Elena Scruggs, Administrative Secretary; David Tolces, CRC Attorney
- IV. Approval of Minutes of Previous Meetings
 - A. November 12, 2009, Brevard County Charter Review Commission's Management and Efficiency Proposal Committee

This item was removed to place on the committee agenda for their approval.

- V. Reports
 - A. Chairman

Duwayne Lundgren – He mentioned double discussion and referenced CRC Rule 19, and read that into the record. He stated that the commission was following the rules adopted. He suggested that the commission try to bring the discussion to a vote to move things along.

Lamb/Nye – APPROVED, to move discussion along. The vote was unanimous, 10-0.

Frank Zilaitis and John Porter arrived after the vote.

- B. CRC Staff Person
 1. Updated CRC Proposal Status 2009-10 distributed

Elena Scruggs – She mentioned that the Management and Efficiency Proposal Committee will be meeting on December 16, 2009 at 6:00 p.m. in the Florida Room. They will have an additional meeting on January 6, 2009 at 6:00 p.m. in the Florida Room if the business was not completed.

C. Other Members

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

Jerry Brinegar – He resides at 1133 Palo Alto Street, Palm Bay, Florida. He passed out a three page handout to the members. This is part of the public record. He stated that he is part of the FACEOFF Movement to fight against Code Enforcement. He stated that in his opinion the County Commission, County Manager and everyone in the county is breaking the constitution. He stated that Code Enforcement is ruining people's lives, and there is no accountability. He stated that he has been meeting with the County Commission for eight months, and they are doing nothing. He also mentioned his meeting with the County Manager.

Duwayne Lundgren – He asked Mr. Brinegar if he has gone to the Commission with a specific challenge to code.

Jerry Brinegar – He referenced an issue that Code Enforcement had with a man, which was returning a favor by painting a house that he received a surf board from.

Duwayne Lundgren – He is not sure if the CRC can proceed to do anything about the issues discussed.

Martin Lamb – He thinks it is selective un-enforcement. He stated that he needs to have a better publicity campaign. He doesn't think the CRC could control or create a better environment.

David Tolces – He stated that Code Enforcement is governed by Chapter 162, Florida Statutes. He stated that the County adopts an ordinance that regulates Code Enforcement. The CRC doesn't really have any authority over Code Enforcement, because the authority for it is given by statute by the Florida Legislature. The ability for the CRC to do anything is limited.

Frank Zilaitis – He mentioned that he is a former Assistant State Attorney. He recommends that Mr. Brinegar contact the office of the State Attorney, Norman Wolffinger, 617-7510, if he feels employees are breaking the law, based off his comments written in his letter.

Brian Hein – He resides at 5161 Calamondon Avenue, Cocoa, Florida. He wanted to know when someone has rights anymore.

Duwayne Lundgren – He mentioned that ordinances are advertised in the newspaper when a change will occur. If someone is opposed to that specific ordinance, they have the opportunity to attend the public meeting and address their concerns to the County Commission.

Brian Hein – He stated that a month ago, 20-30 citizens spoke out stating the laws were being broken and their powers were being abused. He stated nothing was done.

Martin Lamb – He asked which meeting Mr. Hein was referring to.

Brian Hein – He stated it was the Code Enforcement hearing with the County Commission.

Sue Schmitt – She mentioned that changes were made to where a person making a complaint would have to give their name and address.

Brian Hein – He stated that there was a loop hole, which lets citizens contact their commissioner anonymously.

Duwayne Lundgren – He stated that this is not something the CRC can address.

Dale Young – He asked the attorney if the CRC would be in the right if it prohibited non-elected hearing officers.

David Tolces – He stated that he would have to read the statute, but he doesn't think the statute would allow you to put that prohibition in the Charter to require that you have elected hearing officers.

Brian Hein – He referenced Section 101.3.3, which deals with permitting and inspection.

David Tolces – He mentioned that Mr. Hein might be referencing the Florida Building Code.

VII. Introduction of Guests and Their Presentations (if applicable)

VIII. Reports and Committees

IX. Unfinished Business

X. New Business

A. Proposal #22 Candidacy and Election (Neta Harris)

Neta Harris – She mentioned that this was briefly discussed in the committee meeting led by Mr. Bobay. She proposes to create 2.5.1a-Nonpartisan Election of members of the Board of County Commissioners from each district, and create 2.5.1b-Rules for Nonpartisan Elections.

Dale Young – He asked if another paragraph could be added stating, “All elections shall be partisan”.

Martin Lamb – He asked if Ms. Harris wanted nonpartisan elections for all elected officials in the county.

Neta Harris – She mentioned it would be primary for County Commissioners. She stated that there are existing offices that are already nonpartisan, such as the Judges, School board, Barefoot Bay Special District, Soil and Water Special District, and Holiday Park Recreation.

Martin Lamb – He mentioned the effect is to have the five County Commissioners, and it being a primary and general election. He stated that it would be going back to what was in the past.

Jim Rosasco – He commented that the supporting article provided concluded that the partisan would be better. He wouldn't want to limit it just to the County Commissioners. He thinks it would be applicable to the constitutional officers.

Neta Harris – She stated that she is open to that suggestion.

Jim Rosasco – He is not sure how involved the parties were, and the actual supporting candidates at the commission level.

Sue Schmitt – She commented on her three elections as a County Commissioner. She stated that not once did the party get involved. She mentioned that it's up to the candidate that's running.

Duwayne Lundgren – He doesn't know if the Democratic Party has every endorsed a candidate in the elections. He stated that the only time the Republican Party every endorsed candidates; every candidate they endorsed lost in Brevard County.

Bunny Finney – She speaks to experience as a candidate in 2002 for County Commission, and stating that the party was involved in the primary process, both actively in support and against members of the party.

Ronald Bobay – He favors the nonpartisan, and is fine with involving the constitutional officers, as well.

Matthew Nye – He mentioned the concept of geographical representation. He stated the reason you have political parties is so that the working folks don't have to take the time to investigate the person on every single issue. He thinks the partisan serves a valid function for the voter, and it would be a mistake to remove that.

Neta Harris – She thinks people need to investigate who they are voting for, and not necessarily trust whichever party they favor. This gets them better informed when they go to the poles.

Matthew Nye – He stated that you are eliminating a tool that the voters have at their disposal. He does not think going to nonpartisan is going to make the voter better informed.

Dale Young – He thinks most of the commentary comes from the problems in New York and New Jersey, not in Brevard County. He mentioned that the commentary provided by Ms. Harris show in favor of partisan elections. He stated that if it's nonpartisan, the candidate has no responsibility toward telling you where he stands.

Jim Rosasco – He asked for historical context on partisan and nonpartisan elections.

Duwayne Lundgren – He stated in 1998, the elections were nonpartisan. In 2000 there was a Charter change to go back to partisan. He mentioned that a lot people do not do due diligence in what a particular person stands for.

Frank Zilaitis – He mentioned that he ran in a judicial race in 2006 under the nonpartisan system. He stated that life is less fortunate as a nonpartisan candidate.

Martin Lamb – He believes there are the two separate ideologies. When you have a partisan election, the party will pick their best. At that point, you have the two ideologies that are proposing a representative way to move forward with the governmental agencies; therefore, you can choose between those ideologies. He thinks partisan elections are good.

Neta Harris – She stated that one of the most important things that she feels is that there are individuals who would want to and are qualified to run for a position, but may not have the support of either party.

Matthew Nye – He does not feel that is a factor, at this time in Brevard County.

Duwayne Lundgren – He stated that there are restrictions on what the party can do in providing dollar support to candidates, and the various clubs.

Neta Harris moved, seconded by Ronald Bobay to approve proposal #22 ~ Candidacy and Election, after discussion.

David Tolces – He asked for clarification on the motion. Is the intent to have the proposal researched and placed into draft form for consideration by the CRC?

Neta Harris – She confirmed that was the intent.

John Porter – He asked what the reason was for going back and forth between partisan and non-partisan.

Sue Schmitt – When she was elected it was a partisan election. She recalls the run-offs being done away with.

Martin Lamb – He votes in the negative, because the people voted to have it partisan. He estimated around 70 percent.

John Porter – He thinks this is a good topic, but the people have spoken on what they want. Unless something has changed since the last vote for partisan elections, he wonders why there should be a change now.

Matthew Nye – He wants to be clear that he's not saying that he supports the partisan system, because he wants goose stepping party loyalist voting without thinking. He stated that the partisan election serves a valid purpose to give people an understanding of what somebody stands for without having to invest a lot of time.

Bunny Finney – She would like to discuss run-off elections, and if there is a way to re-implement this.

Duwayne Lundgren – He stated that was a state change.

Bunny Finney – She mentioned that when you have a multiple number of individuals running in the primary of a party, you can have one prevail that hasn't reached a majority that goes into the general election.

David Tolces – He stated he would have to research that. He isn't sure if it comes under general party or if it's governed specifically by state statutes. In the election of the commissioners, you could place a 50 percent threshold if it's non-partisan.

Frank Zilaitis – He stated the pre-general election run-off was done away with statewide. If the CRC doesn't change the partisan nature of county elections; his concerns is that this body can, and should address this issue. He believes there will be partisan elections, but there's going to be a partisan party that's going to surface and create a plurality problem, and it will be such that somebody will become our County Commissioner with 34 percent of the vote.

Duwayne Lundgren – He stated that a larger problem unsolvable is that if you have five republicans in a race and somebody decides to go as write in, that makes that a closed election.

Tom Jenkins – He thinks the CRC is talking about state election law, which the attorney can review, and the CRC has no jurisdiction.

Schmitt/Lamb – CALL THE QUESTION, to close debate on the motion. The vote was unanimous.

Harris/Bobay – FAILED, to have the CRC Attorney research and draft proposal #22. The vote was 2-10, with Porter, Finney, Lundgren, Young, Nye, Rosasco, Schmitt, Jenkins, Zilaitis and Lamb voting nay.

B. Proposal #23 Salary and Other Compensation (Neta Harris)

Neta Harris – She reviewed and explained her proposal with the CRC members. She did some research with regards to her proposal, and found that there are counties approximately the same size as Brevard County that has adopted a lower or comparable rate.

Sue Schmitt – She stated that what Ms. Harris is proposing, it would cut the salaries to around \$29,000; therefore, causing the commissioner to find other work to compensate their salary. She mentioned that being a commissioner is a 24/7 job.

Jim Rosasco – He stated that the \$58,000 doesn't come close to compensate the commissioner for the amount of they do. He wouldn't want to be in a situation where the only people that could be elected would be the people that could afford to serve.

Bunny Finney – She mentioned that she has a report from the Legislative Committee on Intergovernmental relations, which outlines salaries of elected county constitutional officers. She noted that Brevard's County Commission by the State Formula would be \$83,014. She will provide the document to Elena, and have her send it out to everyone.

Matthew Nye – He stated that if you lower the salary, causing the commissioner to find another job that makes them more reliant on staff, which he sees as part of the problem. He also commented that you would be opening a can of worms if the Chair received additional monies.

Martin Lamb – He believes that \$58,000 is a fair wage. His concerns with the lower salaries are that that they would be subject to influence than if they are being fairly compensated.

Harris/Porter - FAILED, to have the CRC Attorney research and draft proposal #23. The vote was 1-11, with Bobay, Porter, Finney, Lundgren, Young, Nye, Rosasco, Schmitt, Jenkins, Zilaitis and Lamb voting nay.

C. Proposal #24 Elected County Officers and Departments Headed by Elected Officers (Ron Bobay)

Ronald Bobay – He thinks these proposals cross-purpose to try to provide unified services for the district.

Tom Jenkins – He thinks it could be argued that it could diminish their effectiveness. He gave the example of the Sherriff, and if he is under the direct supervision of the County Commission it all goes away.

Sue Schmitt – She thinks it's a good check and balance system the way it is currently.

Ronald Bobay – He asked if the County Commission writes the job description, indicating that they are a certified law enforcement officer.

Matthew Nye – He thinks the ability for the constitutional officers to stand on their own provides a valid check and balance. He does not support this proposal.

Ronald Bobay – He mentioned that you do get a mandate to serve, but it fragments what you are trying to do. He stated that you have separate offices to provide uniform services to the district, and yet you have individual offices that bring a mandate to serve individually.

Duwayne Lundgren – He stated that County Commission has two jobs; budget and policy guidance. The unspoken job is the service to the community.

Dale Young – He commented that you wouldn't want to have the County Commission collecting their revenue and spending their revenue.

Duwayne Lundgren – He recalls the only case in the state where this is going on is the Supervisor of Elections in Miami-Dade County, non-partisan.

Matthew Nye – He stated that the Clerk's office controls the auditors. You have the County Commissioner's appointing a clerk who controls the audit process for the county. He thinks that's the fox guarding the hen house.

Ronald Bobay – He asked if there are statutory requirements for annual audits.

Tom Jenkins - He stated there are.

Ronald Bobay – He stated if county has an annual audit requirement, and they go out externally; he doesn't know why you wouldn't embrace all the constitutional offices, which would become a part of county government.

Matthew Nye – He thinks you can achieve the goal having everyone on the same platform, by putting language in the Charter to have all constitutional officers utilizing a certain accounting package.

David Tolces – He stated that their budgets are governed by state statutes.

Duwayne Lundgren – He mentioned that path was taken and it was determined that the County could not audit one of the constitutional officers.

Neta Harris – She thinks this could be handled under the Efficiency Commission.

Jim Rosasco – He is uncomfortable giving five elected politicians the right to appoint all these constitutional offices. He is more comfortable having them elected.

Porter/Bobay – FAILED, to have the CRC Attorney research and draft proposal #24. The vote was 2-10, with Porter, Finney, Lundgren, Young, Nye, Rosasco, Schmitt, Jenkins, Zilaitis and Lamb voting nay.

The next meeting will be held on December 17, 2009, at 6:00 p.m., located in the Florida Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940.

XI. Adjournment at 7:28 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.