



BREVARD COUNTY CHARTER REVIEW COMMISSION

SYNOPSIS MINUTES

Thursday, March 18, 2010 6:00 P.M.

Brevard County Government Center

Florida Room, Building C

2725 Judge Fran Jamieson Way

Viera, Florida 32940

- I. Kendall Moore called the meeting to order at 6:04 p.m.
- II. Neta Harris led the Pledge of Allegiance
- III. Roll Call: Kendall Moore, Chairman, District 1; Neta Harris, District 1; Ronald Bobay, District 1; Duwayne Lundgren, Vice-Chairman, District 2; John Porter, District 2; Bunny Finney, District 2; Dale Young, District 3; Jim Rosasco, District 3; Sue Schmitt, District 4; Robert Ludwiczak, District 4; Tom Jenkins, District 4; and Martin Lamb, District 5

Commission Members absent: Matthew Nye, District 3; Tres Holton, District 5; and Frank Zilaitis, District 5

Staff Members present: Elena Scruggs, Administrative Secretary; David Tolces, CRC Attorney

John Porter and Martin Lamb arrived at 6:05 p.m.

- IV. Approval of Minutes of Previous Meetings
 - A. March 4, 2010 Brevard County Charter Review Commission

Jenkins/Ludwiczak – APPROVED, with corrections on pages 2, 4, 5 & 9. The vote was unanimous, 12-0.

- V. Reports
 - A. Chairman

Kendall Moore – He noted that there was a letter from Sheriff Jack Parker and Jim Ford, and wanted to make sure that everyone received a copy.

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

Martin Lamb – He thanked the CRC members for honoring the time for his wife. He mentioned that she is doing well.

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

Penny Canales – She resides at 2655 Center Street in Melbourne, Florida. She read a statement that she prepared. It noted that auditing, analyzing, and efficiency reports should be done. She mentioned that there should be an easier translation for ballot language.

Rev. Earl Medlen – He resides at 902 Midway Street in Barefoot Bay, Florida. He read the second paragraph of the Declaration of Independence. He also referenced Article I, of the Florida Constitution. He is unhappy about the unconstitutionality of Code Enforcement. He stated that he would like to be left alone.

Kendall Moore – He mentioned that there is a second request for Ms. Canales to speak. He asked the Board if they were okay with that.

Martin Lamb – He asked if it was on a different issue.

Kendall Moore – He noted that it was.

Sue Schmitt – She mentioned that the Chair has explained in the past that Code Enforcement is not in the purview of the CRC.

Penny Canales – She mentioned that there are a lot of code enforcement violations in her area. She fears that she will be next to being harassed. She thinks the current codes and the method of enforcement is in violation of the people's fourth amendment right. She does not think Code Enforcement's purpose is for community beautification, retribution, eels, eminent domain, and to produce revenue, but rather for safety.

Kendall Moore – He stated that the CRC has a specific task related to the review of an every six year basis of the Charter for county government, and hence; Code Enforcement traditionally does not fall within the realm of the body of the CRC. He noted that could be appropriately taken up with the Board of County Commissioners, and/or staff related to the issue. He always welcomes comments, but doesn't want the public to believe the CRC was being indifferent.

Rev. Earl Medlen – He stated that if something is going against the Charter, the CRC has the authority to change it.

David Tolces – He stated that the Code Enforcement statute is provided under Chapter 162, and is up to the County Commission to adopt the code, hire the employees and regulate the employees. He noted that it has nothing to do with the CRC.

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

VIII. Reports and Committees

IX. Unfinished Business

A. Proposal #25 County Comptroller (Ron Bobay)

Ronald Bobay moved, seconded by John Porter to approve the following language: There shall be established a Department titled "Comptroller" within county government appointed by the county commission which will report to the county manager. The responsibility of this office will be to provide comprehensive financial services to all Departments within county government to include all constitutional offices and their elected officers", after discussion.

Martin Lamb – He stated that he disagrees with the Comptroller being appointed by the County Commission. He asked if he could bring another proposal of a Comptroller that's elected.

Kendall Moore – He mentioned that a proposal would be voted up or down, and if there was a proposal different or to the contrary then that would come forward as a new proposal, and allow it to stand on it's own, unless the proposer, through an amendment process could get to something different.

Jim Rosasco – He noted that what Dr. Bobay read was not his original proposal.

Kendall Moore – He stated that he thinks the proposer would have the right to amend his own proposal, but he asked Mr. Tolces for his procedural opinion.

David Tolces – He thinks that Dr. Bobay, as the maker of the proposal has the right to make the motion as he see's fit. It's the Board's right to decide rather or not to accept the proposal, as presented.

Kendall Moore – He thinks the Board collegially decided that it was cleaner from an ability to track the proposals, if it was different than the original then to submit a new proposal.

Jim Rosasco – He's not sure why the proposal couldn't be amended to say what Mr. Lamb's was suggesting.

David Tolces – He mentioned that if the maker of the original proposal feels it's necessary to amend his motion then it's up to the Board to recognize that fact, and either vote for or against it.

Ronald Bobay – He mentioned that when the State Legislature passes a statute, typically there's a transcript and a record of what the intent was. His intent in his motion was to clarify his original proposal. He is not opposed to staying within the original wording of his proposal. He thinks that the minutes and past records have always made it clear that the Comptroller was to be appointed through the County Commission,

reporting to the County Manager, and it would consolidate as a matter of efficiency for all the constitutional offices. He does not want any interpretations that the Comptroller was ever intended to be elected.

Neta Harris – She thinks that the CRC has set precedence when Mr. Yorston presented his proposal, and he did not lay out the information needed. He was told to come back with his intent, summary and explanation. She doesn't think Mr. Bobay can make an amendment to his proposal.

John Porter withdrew his second. Ronald Bobay withdrew his motion.

Ronald Bobay moved, seconded by John Porter to approve Proposal #25, as submitted, after discussion.

Mark Cook – He resides at 1097 Coronado Drive, Rockledge, Florida. He would like better clarification of what the agenda items were dealing with, because the agenda was not clear. He stated that he has a problem with the Comptroller being an appointed position, because he thinks it's a conflict of interest. He stated that a Comptroller is a person that audits and looks independently at the expenditures of all government agencies and bodies. He mentioned that when you have elected position they are not under the influence of a particular elected body. He thinks that rather than centralizing power to the County Commission it should be dispersed and have a separation of power to have a check and balance.

Robert Ludwiczak – He noted that Mr. Bobay's proposal has been on the table for a few months, and he thinks he has made it clear as to what his proposal speaks to.

Mark Cook – He stated that it would be nice to have more clarification on the agenda so the public could understand what was being proposed.

Kendall Moore – He agrees with the audit and check and balance function. He stated that the central reason for Dr. Bobay's proposal was, because the finance functions; the payment processing element that goes with the finance department resides outside the control and scope of the CEO of the county. If the constitutional offices are used, all their payment processing functions, and finance function reside internally. The Comptroller discussion has been about auditing the constitutional officers and the checks and balances. For some reason, the County as a whole; we want to say that the checks and balances requires us to remove that entire function from the county and put it in the hands of a separate constitutional officer.

Mark Cook – He stated that's the difference between a private and public enterprise. A public enterprise is where you have to protect the interest of the people. He thinks the interest will not be protected if you consolidate all the power into the County Commission.

Ronald Bobay – He noted that the School district is the largest governmental business in Brevard County, and has a unified financial service. They do not talk about meeting the checks and balances, because they're required to have an attorney general audit, external to the district, or required to have a private audit. He doesn't understand why it causes so much stress to have a Comptroller for the County Commission.

Mark Cook – He stated that it will not lend itself someone being critical of the expenditures or financing.

Ronald Bobay – He mentioned that there has been discussion for a Comptroller to substitute one person's judgment over five who are elected on the County Commission. He thinks there is more of a balance by having multiple elected officials responsible.

Mark Cook – He disagrees. He stated that you have five individuals spending the money and they are also looking at how it is being spent.

Carolyn Fausnaugh – She resides at 2044 They Drive, Melbourne, Florida. She mentioned that she stumbled on the CRC taking place, and wished that there was more public awareness. She feels that the CRC is combining financial operations having to do with the receipt of funds, payment of expenses, and the handling of excess funds and the administration of contracts with the idea of financial auditing and operational auditing. She stated that there is an operational side to the flow of money that has to do with the processing of transactions and the making of financial decisions. She thinks those can go under the County Commission, because it's operational. She mentioned that financial and operational auditing, which can be split out and become separate from the usual operations, because their function is oversight.

Penny Canales – She stated that previous discussion was the Comptroller being elected, and asked if that was still the case.

Kendall Moore – He noted that there has been discussion of multiple ways for the Comptroller.

Dale Young – He does not think the proposal gets the county where it needs to be. He stated that he is opposed, unless it is an elected position.

Sue Schmitt – She stated that her concern is that the way Florida law is set-up, the County Manager has the responsibility for the budget; there is a budget office that is set-up as your CFO. She mentioned that the county has two internal auditors, which are private CPA firms. She also mentioned the external auditor that the county has. She noted that Mr. Tolces memorandum stated that auditing of the constitutional officers were not allowed, because of Florida Law. She thinks this is adding another layer, more money for more people, and not doing anything.

Ronald Bobay – He is under the perception that there are redundancies when looking at payroll, purchasing and investments. He stated that he was not in the points of audits. He is promoting the efficiencies of trying to centralize redundant functions. He stated it is not his intent to add an additional layer.

Sue Schmitt – She stated that the way it is currently set-up the constitutional offices respond to the County Manager. She reiterated Mr. Tolces' opinion, and not being able to audit the constitutional officers. She mentioned that the constitutional officers are mandated by law to have external audits.

Porter/Jenkins – CALL THE QUESTION.

Martin Lamb – He asked for a point of order. He thinks the CRC members should have a chance to speak before the question has been called.

David Tolces – He stated that the motion to call the question is in order at anytime, but it does require a 2/3 vote.

Tom Jenkins withdrew his second. John Porter withdrew his motion.

Martin Lamb – He noted that schools do not get an occupational license, and therefore; they are not a business. Schools do not have any of the constraints or burdens like a business has. He thinks government should not be run as a business. He believes the Comptroller should be an elected position.

Duwayne Lundgren – He stated that if you were to lay the process out the way Ms. Fausnaugh stated it would be a very supportable, which is to take the financial operations and turn that over to the County Manager. That could be done by saying that the Finance Director no longer works for the Clerk of the Court, but for the County Manager. He noted that Dr. Bobay's proposal is too simple, and speaks to consolidation of all kinds of things that probably shouldn't be consolidated under the County Commission. It has been determined that it is unconstitutional to include an audit function. He noted if the proposal was to move the county finance operation from the Clerk of the Court and place it under the County Manager, then all the things that have to do with county operational expenditures makes a lot of sense.

Bunny Finney – She wanted to know the intent to provide a way for efficiencies regarding procurement, personnel and purchasing functions. She asked if there was anything currently in the law that would prohibit the constitutional officers from coming together and doing joint procurement, purchasing, and oversight of personnel functions cooperatively in a way that could create efficiency without it being required under the Charter. She stated if it's not prohibited, then why we are not compelling our public servants to that without there being a rule or something written in the Charter.

David Tolces – He stated that he is not aware of anything that would prohibit the individual constitutional officers from entering into innerlocal agreements amongst themselves to provide for those services.

Bunny Finney – She thinks that as citizens, away from this commission, it's important to raise the points to the elected officials. She does not think the CRC has found the magic way to make this work.

Dale Young – He stated that the CFO is different than the Budget Officer. He mentioned the reason the clerk guarantees the checks is so the county has a check and balance. He thinks it is being made more complicated than it needs to be.

Harris/Young – CALL THE QUESTION. The vote was unanimous, 12-0.

Bobay/Porter – FAILED TO APPROVE, Proposal #25, as submitted. The vote was 3-9, with Harris, Porter, Finney, Lundgren, Young, Schmitt, Ludwiczak, Jenkins, and Lamb voting nay.

X. New Business

A. Proposal #35 Abolish Constitutional Officers/Establish Charter Officers (Matthew Nye)

Kendall Moore – He mentioned that Mr. Nye was not present, but would take any discussion on the proposal.

Bunny Finney – She stated that there are several proposals that have different scenarios. She thought it would be appropriate to give an overview of each proposal for the public interest.

Kendall Moore – He read the requested actions of Items X. A-E so the public was aware of the nature of each item.

David Tolces – He asked Mr. Young if he thought his proposal #37 was considered to be the same as Mr. Nye's proposal #35.

Dale Young – He stated, pretty much, but he'd hate to combine the two without Mr. Nye here.

Harris/Lamb – POSTPONE DEFINITELY, until March 31, 2010. The vote was unanimous, 12-0.

B. Proposal #36 Charter Amendment to schedule a vote to repeal the Brevard County Charter (Al Yorston)

Al Yorston – He stated that he listened and recognized the objections and concerns from the CRC in moving forward with his last proposal. He created an amendment that would outline the process to repeal the charter in the future. He mentioned that he reviewed all 20 Charters in the State of Florida, but he did not find a section outlining how the Charter would be repealed. He noted that it doesn't appear to be an item that has come before any CRC's or through an initiative process by the citizens in any of the Charter counties in the state. He did find several initiatives or amendments that were brought forward by way of scheduling future elections on items related to amendments in the Charter. He thought that moving forward with his amendment would meet the legal issue, and facilitate the opportunity for additional public discussion. He is asking the CRC to approve a new section in the Charter that would require an election to be held in the November 2012 general election asking the voters if the Charter should be repealed. He believes this proposal is the single largest opportunity that the CRC has to put an item before the voters that would ensure in the future millions of taxpayer's dollars are saved.

Robert Ludwiczak – He asked why he chose November 2012.

Al Yorston – He stated that the amendment would go on the ballot in November 2010, creating a section that said a vote would be held in 2012. He picked 2012, because it is the next general election cycle and presidential cycle, which tends to have higher voter participation.

Robert Ludwiczak – He stated that as a CRC amendment it is going to be put on to be voted on in 2010, and then to be looked at again in 2012, and then this CRC has been dissolved in 2010; what does that do to the proposal.

David Tolces – He understands that the proposal is an amendment to Charter, which will be on the ballot in 2010. The issue will be debated as to whether or not this amendment should be included in the Charter. If it's included in the Charter then it would require to be placed on the ballot in 2012, asking if the Charter should be repealed. He mentioned that it has no bearing on the length or vitality of this CRC.

Robert Ludwiczak – He asked why the question couldn't be asked in 2010 to repeal the Charter.

David Tolces – He mentioned that there was discussion at a previous meeting when Mr. Yorston presented his original proposal, and based upon the language in the constitution, as well as in the Charter there was not a provision that provided for the CRC to consider repealing the Charter.

Al Yorston – He mentioned that if the voters vote this amendment down in 2010 then that's the end of the discussion. He noted that the CRC is not triggering the election, it would be the voters.

Robert Ludwiczak – He asked how many Charters have been repealed.

Al Yorston – He stated that none have been repealed in the state, but they have all been amended by all three methods, which are citizen petition, CRC, and County Commission.

David Tolces – He stated that he may be referring to that there may have been charter amendments passed in other charters that provided for an election for referendum on a subsequent date.

Neta Harris – She stated that Mr. Yorston mentioned that there could be money saved, but she does not see any language in the proposal for saving money. She asked for examples of how money could be saved.

Al Yorston – He stated that the CRC process cost the taxpayers several hundred thousand dollars. He noted that each time the CRC meets; there are attorney fees, public meeting fees, staff fees, publication and notice fees, and the cost to place the items on the ballot. He stated there could also be cost savings by not having litigation brought before the CRC for amendments.

Neta Harris – She commented that if it did go back to a constitutional form of government; wouldn't there be a cost involved if there had to be changes in governmental procedures processes that could not be handled under a smaller budget, as far as CRC is concerned.

Al Yorston – He noted that under the current Charter organization you have the same organizational structure as you would under a constitutional form of government. You would not have any less charter officers. The same authorizes would be vested in each of the offices.

Neta Harris – She commented that there still is an expense associated with something.

Al Yorston – He stated that if you don't give the citizens the opportunity to repeal the charter in the next five years, the process will start all over again and it will cost several hundred thousand dollars. He stated that whether the CRC agrees the Charter should be repealed or not, the question is ultimately vested in the voters.

Martin Lamb – He asked for an explanation of the hundred of thousand of dollars Mr. Yorston spoke to.

Al Yorston – He stated that each initiative that is approved has a cost associated with them.

Martin Lamb – He stated that the savings he's talking about is false. He challenges the figures.

Al Yorston – He stated that he can quantify the figures at a later time.

Sue Schmitt – He commented that she was under both types of government. She stated that the only difference was that the County Commission was paid more money under the constitutional form of government.

Tom Jenkins moved, seconded by Duwayne Lundgren to approve Proposal #36, after discussion.

Penny Canales – She asked how much the attorney charges for the meetings.

David Tolces – He stated that his hourly rate is \$200/hr and \$500 for travel time per meeting.

Duwayne Lundgren – He would like to see the proposal move forward, because he's never seen any value to having a county charter. He would like to give the people an opportunity to decide.

Dale Young – He doesn't see a difference from Proposal #28, which failed. He stated that anything that would be done in the next two years with the charter would become invalid if the proposal passed. He would like to have an audit of the CRC. He does not see any value to the proposal.

Bunny Finney – She stated that she thinks the CRC's role is to review the Charter. She thinks this has been done through two lenses. One, being philosophical review, and the other being the technical review. She commented that Mr. Yorston has brought to the CRC that there is an omission in the Charter for a mechanism to exist on how to abolish the Charter. She thinks any governing document should have that provision. She mentioned that whether we should be under a constitutional or charter form of government is a decision that the community should make. She thinks the proposal should be considered.

Martin Lamb – He stated that he finds fault in the proposal, because it's a single time. He proposed in 1998 that every time the CRC met there would be a vote if the Charter should be repealed. He thinks the opportunity should continue even if the voters decided not to have it repealed.

Kendall Moore – He asked if he was asking to amend the proposal.

Martin Lamb – He would vote for an amendment to be continuous starting every Charter.

John Porter – He asked what the value of the two forms of government.

Sue Schmitt – She stated that the only difference is that the County Commission was paid by statutory formula under a constitutional form of government. Now, they must vote on their salaries, which are less than what they would be under statutory formula.

David Tolces – He stated that the Charter can be used to provide for specific processes with respect to land use, establishing a Board Adjustment of Appeals that might apply countywide. He mentioned if you look thorough the charters throughout the state there are various processes that can be used to provide for countywide provision that don't necessarily conflict with municipal ordinances.

Tom Jenkins – He thought under the constitutional the County Commission is limited to ordinances in the unincorporated area.

David Tolces – He stated that they could potentially adopt ordinances that do apply countywide, but if there is a conflict between a county ordinance and municipal ordinance, the municipal ordinance would apply.

Tom Jenkins – He thought it was more restricted under the constitutional than under the charter.

Sue Schmitt – She mentioned the proposal that will go on the ballot regarding the cities. She stated that under constitutional, if there was an ordinance and the cities went to the County Commission and asked not to be part of the ordinance, and be part of an inner local; is that all they would have to do.

David Tolces – He stated that is correct.

Duwayne Lundgren – He asked if the proposer would take an amendment.

Tom Jenkins – He stated that it would depend on what the nature of the amendment was.

David Tolces – He thinks the Board previously has not allowed amendments as they have been presented, but it's up to the Board to interpret its own rules, and the maker of the motion to amend his own motion.

Bunny Finney – She asked for a point of order; when a proposal is presented by someone in the community, is the next step for someone from the CRC to pick-up the proposal to move it forward.

David Tolces – He stated that a member can make a motion to adopt, as is.

Kendall Moore – He noted that Mr. Yorston would not have the ability to move the body forward, but someone on the body would have to do so.

Tom Jenkins – He commented that the CRC is not forming a judgment whether the Charter is a good or bad thing. The proposal is to let the voters make the decision. He stated that he is not passing judgment, but simply exercising the democratic principals and allowing the voters to make that decision.

Duwayne Lundgren – He stated that his amendment was referring to schedule a vote in 2012 general election and every six years thereafter.

Martin Lamb – He said it would need to follow the Charter.

Tom Jenkins – He's stating that at the conclusion of every CRC this question would be asked of the voters.

Tom Jenkins moved, seconded by Duwayne Lundgren to amend Proposal #36 to add that every six years thereafter the amendment would be placed on the ballot, after discussion.

Kendall Moore – He mentioned that procedurally amendments are in order, but the reason why the Comptroller was not taken into consideration was because it was totally different than the original proposal that was presented.

John Porter – He stated that currently the charter form of government allows us to do things we can't do under a constitutional form of government.

David Tolces – He stated that the Charter allows the citizens of the county to vote on items on how they see the government should operate, as opposed to leaving that in the hands of the County Commission.

John Porter – He asked what the intent was when the people brought the Charter to the ballot.

Martin Lamb – He stated it was for Home Rule control. He stated that the original was to have Home Rule Charter, which meant the citizens could have, rather than having ordinances, you could have proposals. He thinks it's easier to affect the Charter than the constitutional form of government.

David Tolces – He stated that some charters have specific provisions regarding separating a county into a legislative body and an administrative body, and how that is organized. Some charters have the abolishment of the constitutional officers. Some charters have the ability of the county to control land use planning on a countywide basis. He noted that there are all different aspects that could be included in a charter, which could not necessarily be changed by the County Commission, but could only be changed at the ballot box.

John Porter – He stated that the point being is that under the charter form of government the citizens are more empowered to change their form of government and how it affects them versus the constitutional form of government.

Martin Lamb – He stated that is correct. He wanted to clarify that in the motion that there would not be an election in 2012, but rather the next time the CRC would meet.

David Tolces – He clarified the motion: Authorize the attorney to draft the proposal presented by Mr. Yorston, with the additional condition that the proposal to repeal the Brevard County Charter be placed on the ballot in 2016, and every six years thereafter in conjunction with the CRC.

Dale Young – He mentioned that the County Commission's salaries would not be able to be set if they were under a constitutional form of government. Also, the constitutional officers would never be able to be audited. He noted that there are a lot of advantages to self government.

Bunny Finney – She thinks it's important to stay on point to what the nature of the proposal. She noted that this proposal will trigger conversation on a regular basis.

John Porter – He is against the motion, because a lot of effort went into establishing the Charter, and it gives the people of Brevard County the opportunity to have a say so in how their government works.

Martin Lamb – He speaks against the motion, because of the 2012 election being included. He thinks it takes it out of cycle and the focus of the people on the CRC.

David Tolces – He reiterated that the proposal is currently in 2012, and the amendment was to make it in conjunction with the CRC.

Neta Harris – She wanted a reading of the motion again.

David Tolces – He stated that it is to authorize the attorney to draft the amendment, as proposed by Mr. Yorston, with the amendment that it also be placed on the ballot in conjunction with the CRC, which will be in 2016 and every six years thereafter.

Kendall Moore – He stated that he has beliefs related to charter government, but he feels strongly about the people's ability to decide how they are governed.

Dale Young – He stated that the idea for charter government is so the people have a choice; otherwise, the state decides for them.

Tom Jenkins – He noted that there were referendums prior to the Charter.

Tom Jenkins moved, seconded by Duwayne Lundgren to amend the amended motion to have the first vote in 2016, and every six years in conjunction with the CRC, after discussion.

Ludwiczak/Young – POSTPONE INDEFINITELY. The vote was 3-9, with Moore, Bobay, Porter, Finney, Lundgren, Rosasco, Schmitt, Jenkins, and Lamb voting nay.

Jenkins/Lundgren – FAILED TO APPROVE, Proposal #36 as follows: Requesting the Charter Review Commission consider approval of a Charter Amendment asking the voters to schedule a vote in November 2016, and every six years thereafter in conjunction with the Charter Review Commission review of the Charter to repeal the Charter and return Brevard to a constitutional form of government, and authorize the attorney to draft language for the ballot. The vote was 5-7, with Harris, Bobay, Porter, Young, Rosasco, Schmitt, and Ludwiczak voting nay.

The board took a recess from 8:06 p.m. until 8:15 p.m.

C. Proposal #37 Elected County Officers (Dale Young)

Dale Young – He mentioned that he took his proposal from Mr. Tolces comments and also from Orange County to convert the existing constitutional officers to charter officers still being elected officials. They would still be under Florida State Law under the same duties. The name is being changes so we have the constitutional right to perform a review of their finances.

Duwayne Lundgren – He mentioned the letters from the Property Appraiser and Sheriff, and that they are opposed to being under the direction of the County Commission.

Dale Young – He stated that they will still be independent elected officials, and not under the County Commission. He thinks the objections in the letter are under false impression that we are trying to put this under county government, and that's not the case.

Kendall Moore – He asked if any other legal concerns unintended consequences about making this change unrelated to the specific audit discussion.

David Tolces – He stated that under the Constitution the electors of the county have the right to abolish the positions of the constitutional offices and convert them to county offices. While he hasn't been directed to do any research regarding this proposal, this does not appear to be inconsistent with what is authorized under the Florida Constitution.

Martin Lamb – He wanted to know the benefits of converting the positions.

Dale Young – He stated that the concern for the last few months has been that there isn't an avenue to audit the constitutional officers. This gives the county the opportunity to take a look at the finances. He thinks there should be checks and balances on the constitutional officers.

Sue Schmitt – She stated the only thing she has heard in the last few months is that individuals in favor of changing the constitutional officers to charter officers, are audits, because they want audits of the constitutional officers, and under Florida Law there is no way to do that. She asked if there is anything wrong with what the constitutional officers are following according to Florida Law, and if not, she has a problem changing them to charter officers. She distributed an article that was an editorial in the St. Petersburg Times, published on February 26, 2010, and read it into the record. She stated that the only reason she wanted to point the article out was because we're talking about Charter officers for the purpose of auditing.

Dale Young – He stated that it sounds like the auditor worked for the commissioners. He mentioned that the constitutional officers may or may not be audited by the state. The commissioner's audit does not audit the constitutional officers. He doesn't believe it's totally true to say there is an annual audit. He thinks the constitutional officers should be required to spend at least eight hours in their office sometime during the week.

Robert Ludwiczak – He stated that in terms of changing from constitutional officers to charter officers, there's a percentage of revenue that comes from the state to the constitutional officers. He asked if that was correct.

Steve Burdett – He stated that the revenues that come from the state to the county are mostly to the Board of County Commissioners, with the exception of a recent change of the Clerk's office going from a fee office to a

budget office, and that's appropriated by the State of Florida. As far as the rest of the officers; Tax Collector gets their fees off the taxes they collect, and they also handle the driver licenses. The Sheriff office is appropriated from the County Commission, but they also get grants from the State and Federal government, and that also applies to the remainder of the officers. The general revenues, such as sales tax that are shared with the State come directly to the County Commission.

Robert Ludwiczak – He asked if the constitutional officers are changed to charter officers would the County Commission be obligated to pick up the difference.

David Tolces – He stated that they would be funded the same.

Tom Jenkins – He stated that there are inaccurate statements being made. He mentioned that Mr. Young stated that constitutional officers don't get audited, and that's incorrect. He noted that there's a financial audit every year by the external auditor. The Florida Department of Revenue reviews the Property Appraiser assessment rule every rule.

Martin Lamb – He noted that the article submitted from Ms. Schmitt brings to his attention that if you are going to do something you better get it right, and they did not. He feels that the independence and the ability to perform the job is going to be the most important factor.

Tom Jenkins – He commented that it's interesting that Mr. Young is proposing that an auditor will sit outside the door of the Tax Collector five days a week, eight hours a day and monitor when the Tax Collector is in her office and when she's not. The budget for the Tax Collector is paid for based on a formula the state has which is based on the amount of money they collect. The Property Appraiser bills all the taxing authorities, and his budget is prorated out.

Dale Young – He stated that he didn't talk about how it's funded.

Mark Cook – He is opposed to the proposal, because the more independence constitutional officers have the better. He thinks this could be used as a mechanism for a County Commission that is corrupt to use their political power to punish political enemies by use of the audit. He concurs with Ms. Schmitt that the constitutional officers are audited every year. He thinks the safeguards that are there now under the State Constitution are more than adequate to protect the taxpayers. Even though the proposal states the officers will be elected, there will still be undue influence.

Carolyn Fausnaugh – He stated that she is listening to the constitutional officers, which says we have dual forms of government in the county. She noted that there are some departments that exist under the constitutional form while the council is under a charter form. She thinks there is something that is not aligned. She asked how the mixed form of government impacts the county. She listened to comments about all the audits being performed, and to her it seems to be fragmented auditing. She commented that we are in a time where we are saying we should live by rule of law, and then we say we don't want the laws and oversight, and that's setting up the county for bad things. In her opinion, you are trying to pass a recommendation without having a plan of the outcomes.

Duwayne Lundgren – He asked if the Sheriff and the Property Appraiser has a mean for an appeal if they don't hit their budget.

David Tolces – He commented it was just the Sheriff that has the right of appeal to the Administration Commission in Tallahassee if they are not happy with the budget that's been adopted.

Duwayne Lundgren – He asked if he would still have that right if he were a charter officer.

David Tolces – He stated as long as the powers are not transferred to the County Commission.

Dale Young – He stated that this proposal doesn't get into auditing and splitting of offices. He stated this proposal is strictly to change constitutional officers to charter officers. He doesn't think the CRC has the expertise to rewrite how the constitutional officers are going to operate. He thinks this proposal brings the constitutional officers in alignment with the Charter.

Dale Young moved, seconded by Martin Lamb to approve Proposal #37, with the officers being elected, and to authorize the attorney to draft ballot language, after discussion.

John Porter – He stated that he heard mentioned, “challenge to the officer’s authority by the County Commission”, and he asked where that is happening.

Dale Young – He stated that they are still under the laws of the State of Florida, not the commissioners.

David Tolces – He stated that in order to provide for the authority for any changes to be to the offices, you need to take this step under the Constitution to abolish the offices and place them in the Charter. This proposal only meets the requirements of the Constitution, but does provide for potential authority of the voters of the county to provide for additional rights or obligations of either the County Commission or the offices, depending upon any other charter members.

John Porter – He stated that this gives the people of Brevard County more control over their local government.

David Tolces – He stated that it potentially could.

Dale Young – He mentioned if the Charter chooses to take further authority then there will have to be another proposal.

Duwayne Lundgren – He mentioned that this proposal gives the people to do things that they do not have the authority to do as constitutional officers.

John Porter – He commented on different ways to change the format of county government. He gave an example of putting the Sheriff over the County Commission under the Charter. He commented that the powers go in the hands of people to decide how and what they want their charter to work. He mentioned that someone could come up with a charter amendment that would take the power away from the County Commission.

Dale Young – He stated that he doesn’t believe we have the authority to change Chapter 125.

David Tolces – He stated that under the Charter those offices could be put under the control of the County Commission, and in theory as long as those job duties and the responsibilities are being performed they may be able to be transferred to different entities.

John Porter – He stated that you are opening it up for all sides, because it’s not all about the County Commission having control over everybody else. It could be the other people having control over some of the things the County Commission does.

David Tolces – He stated that you could create, by the Charter, a Department of Finance. The Department of Finance could be given or directed to be the entity that’s in charge of recording documents. That department would likely come under the County Commission and County Manager. If the positions are abolished there is the ability to mix and match and change things up depending upon what the Charter provides.

John Porter – He commented that if they go to charter officers they could only be affected, and the County Commission would retain all their powers.

David Tolces – He stated that the County Commission would retain their authority.

John Porter – He asked if there was a way the voters could vote in under the Charter, for the charter officers to take away the County Commission powers.

David Tolces – He stated he doesn’t think they could take the powers from the County Commission, because under the Constitution and what it provides for, the county government has to be set-up with the County Commission as the governing body of the County. You may be able to have a Mayor who could have authority over the Commission. He would have to do more research to perfectly clear.

Neta Harris – She commented that this discussion took place two weeks ago, and it was noted in the minutes twice to see if there were any changes that could be made to the proposal, but the CRC continued discussion without any changes. She stated that her idea of workability of this commission is that everyone works together.

Dale Young – He commented that Ms. Harris’ proposal was great with the exception that Mr. Tolces said until this step was taken it was unconstitutional. He noted that we are on the same page, doing the same thing, just a different ground.

Robert Ludwiczak – He asked if it was correct that nothing will change with the responsibilities of the officers, and it will require more amendments if change if needed.

David Tolces – He stated that was correct.

Young/Lamb – FAILS TO APPROVE Proposal #37, with the officers being elected, and to authorize the attorney to draft ballot language. The vote was 5-7, with Moore, Harris, Bobay, Finney, Lundgren, Schmitt, and Jenkins voting nay.

D. Proposal #38 Director, Fiscal Control & Planning (Dale Young)

Young/Porter – POSTPONE INDEFINITELY. The vote was unanimous, 12-0.

E. Proposal #39 Auditing of County Offices (Dale Young)

Young/Porter – POSTPONE INDEFINITELY. The vote was unanimous, 12-0.

John Porter – He mentioned that he would like to invite someone to speak on Efficiency, Opportunity and Innovation.

Kendall Moore – He passed out a map of the unincorporated and corporate areas of Brevard County.

The next meeting will be held on March 31, 2010, at 6:00 p.m., located in the Florida Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940.

XI. Adjournment at 9:06 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.