



**BREVARD COUNTY CHARTER REVIEW COMMISSION  
SYNOPSIS MINUTES  
JANUARY 7, 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 6:03 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; Bunny Finney, District 2; John Porter, District 2; Dale Young, District 3; Matthew Nye, District 3; Jim Rosasco, District 3; Sue Schmitt, District 4; Robert Ludwiczak; District 4; Tom Jenkins, District 4; Frank Zilaitis, District 5; Tres Holton, District 5

Commission Members absent: Duwayne Lundgren, Vice-Chairman, District 2 and Martin Lamb, District 5

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

- IV. Approval of Minutes of Previous Meetings
  - A. December 17, 2009

**Porter/Zilaitis – APPROVED, with a correction on page 2 as a scrivener’s error. The vote was unanimous, 13-0.**

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

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

James Sondej – He resides at 3105 Hield Road in Melbourne. He stated that the Efficiency and Proposal Committee talked about a mission statement, which originally had a statement about ethics. He stated that was removed from the mission statement, and he feels the statement about ethics is important and would like it to remain.

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

- VIII. Reports and Committees

Robert Ludwiczak – He reported that the committee met last night and completed a mission statement and commission procedures. He mentioned that Ms. Scruggs will prepare a complete composite of everything that has been formulated to submit on the January 21, 2010.

Kendall Moore – He thanked all the committee members for their hard work.

John Porter – He stated that he is speaking with different people within the County, as well as outside county government to get an idea of what they think. He mentioned that he is trying to find out how county government works, and what some of the issues might be. He stated a concern that came up as he talked with individuals was that an Efficiency Commission could be used as a tactic to get at someone by another person. He wanted to stress that this is not a tool to go after people and make life difficult for county government officials. However, it is a tool to create opportunity to look at how things are being done and come up with ideas to make it better.

Robert Ludwiczak – He stated that the way the Commission is structured by procedure; it will not allow anyone to go after another individual.

Neta Harris – She asked if she could ask questions about the committee’s proposal, because she will not be at the January 21<sup>st</sup> meeting. She also asked if the committee would meet again.

Robert Ludwiczak – He would like to have the full CRC make their recommendations or changes based on the submittal on the 21<sup>st</sup> of January so the committee wouldn’t have to meet again. He stated that he welcomes Ms. Harris’ comments now.

David Tolces - He suggested Ms. Harris submit her comments in writing for the meeting on the 21<sup>st</sup> so they can be included in the record and the board’s discussion.

**Zilaitis/Nye – SUSPEND THE RULES, to allow Ms. Harris ask her questions. The vote was unanimous, 13-0.**

Neta Harris – She asked where Opportunity Commission comes from, and how it fit into the proposal.

Robert Ludwiczak – He explained that the original amendment was titled the Efficiency Committee. The Committee discussed at the first meeting changing the title to Efficiency and Management Committee. At an additional meeting of the committee, it was decided and voted to title it as the Efficiency and Opportunity Commission. He stated that the efficiency addressed the management issue, and opportunity was an issue that the committee could look at and see if there are opportunities that aren’t being addressed by the county today.

Neta Harris – She stated that Mr. Lamb made a motion to address the Comptroller as part of the committee.

Robert Ludwiczak – He stated that was discussed and decided that it was premature to place the Comptroller as part of the amendment, because Dr. Bobay submitted an amendment for a Comptroller. He mentioned if his amendment passed, that it in itself would be self sufficient. If it fails, and to add it into the committee’s amendment, what would the committee’s view be and what would it do to the entire amendment.

Neta Harris – She mentioned that she reentered discussion for a Comptroller during a committee meeting she was a part of. She feels that from the standpoint the committee was discussing that the Comptroller would be in that fit. She understands the reason to wait to add the Comptroller into the committee’s amendment. She asked if it will still be a consideration of the committee, based on how it works out.

Robert Ludwiczak – He thinks that none of the committee members would be opposed to the idea once the amendment is brought back, if someone from the full CRC wants to offer an addition to what is presented.

**IX. Unfinished Business**

**X. New Business**

**A. Proposal #25 County Comptroller (Ron Bobay)**

Tres Holton left the meeting at 6:20 p.m.

Ronald Bobay – He thought there were prior discussions with the full CRC, because each of the departments appeared to be handling their own internal finance. He stated that it appeared it would eliminate some of the redundancies if it was centralized under a Comptroller.

Dale Young – He stated that this is a comprehensive proposal, and mentioned that there is a speaker that will be addressing some of the aspects. He stated that a Comptroller is used in Orange and Palm Beach County.

Roger Shealy – He stated that he is here to speak and advocate on behalf of the CRC considering a County Comptroller. He is a CPA, as well as a certified internal auditor. He was an internal auditor for the County during his career. He prepared a power point presentation, which is made part of this record.

Why do we need a Brevard County Comptroller?

Because we need an independently elected officer whose **primary responsibility** is to examine the use of County resources and safeguard public assets. In summary, an independent check and balance **accountable directly** to the citizens of Brevard County. To fulfill these responsibilities, the minimum roles (or duties) of the Comptroller should include the following:

Chief Financial Officer – He stated this position is the financial accountant and who prepares the financial statements. He mentioned that Steve Burdett is the County's Finance Director.

County Auditor – This position enables to provide a check and balance.

Custodian of County Funds – Takes care of the reserves and deposits.

Additional roles (or duties) could include the following:

Clerk to the Board

Official Records

Value Adjustment Board

Who currently performs these duties in Brevard County (1)?

The Brevard County Clerk of the Court ...whose primary responsibility is maintaining court records - criminal felony and misdemeanor cases, civil, family, probate and small claims proceedings, juvenile cases, and traffic citations. Additionally, recent changes by the State Legislature have impacted Clerk's offices significantly and more changes are expected.

1 – Exception is County Audit. Both Clerk and Contracted Services

Chief Financial Officer

Primary duty - financial accounting and financial reporting. Can we realize savings by establishing a Comptroller whose duties include CFO? Most certainly, especially if other Constitutional Officers utilize the Comptroller for accounting and reporting. Further, we can increase efficiency by better utilizing SAP. He mentioned that the Clerk provides the accounting and financial reporting for Supervisor of Elections Office.

County Auditor

Auditing Standards Matter

The most significant "check" in the "check and balance" by examining the use of County resources. Independence is key. Internal auditing in Brevard County is severely limited. Only the Board of County Commissioners is subject to internal audit. None of the other constitutional officers are included. The County Auditor needs to be just that... the County's Auditor. He mentioned that when he came to work for the county, the auditor was under the clerk's office, which provided a separation of powers. Since this time the County has hired CPA firms to provide internal audit services. He referenced Section 712. Audits of county officers, which was from Orange County. He mentioned that Martha Haynie is the Comptroller for Orange County. Martha hired an internal auditor, Carl Smith. He stated that the Orange County Comptroller is authorized and required to conduct audits of the other constitutional officers, and the Commissioners are authorized and required to order audits of the Comptroller Office.

Do we need to create a new constitutional officer, or is there an existing constitutional officer whose responsibilities more closely align with that of accounting and controlling? He doesn't believe there needs to be another constitutional officer.

What about the Brevard County Tax Collector?

The Tax Collector is currently required to safeguard public assets. It is in this office that the funding source of local government begins – the first accounting entry!

He concluded by saying that Brevard County needs an independently elected officer whose **primary responsibility** is to examine the use of County resources and safeguard public assets. In summary, an independent check and balance **accountable directly** to the citizens of Brevard County.

Jim Rosasco – He asked if he was proposing adding the duties of the Comptroller to the Tax Collector.

Roger Shealy – He said that brings up a legal question of whether the Tax Collector can be a Comptroller. He mentioned that those departments already exist and are already funded.

Jim Rosasco – He wants to know how to get the person responsible to the public to get elected. He likes the idea of having someone who can be voted in and out of office.

Roger Shealy – He stated that the Tax Collector seems to be the person to fulfill the role for Comptroller. He mentioned that you could visually see three core responsibilities; such as collecting taxes, Comptroller and the Auditor.

Robert Ludwiczak – He asked if there would be prerequisites for background qualifications to serve as the Comptroller.

Roger Shealy – He stated that some would say it's important. He thinks the voters should decide. He doesn't see it as being necessary.

Robert Ludwiczak – He stated he sees it differently. He can hire an accountant who can do so much. He can hire a CPA who can do so much. He can also hire an auditor who can do so much. He mentioned that Martha Haynie spoke at the last CRC, 6 years ago. He is very supportive of the amendment. He asked if the CRC would be in violation based on the way Mr. Shealy has proposed placing a Comptroller.

David Tolces – He stated that he would have to research with respect to what powers or duties will be assigned to the individual; and would they infringe on the constitutional duties or statutory duties of the current officers operating.

Robert Ludwiczak – He asked if Mr. Shealy was proposing one individual without staff.

Roger Shealy – He responded, “No.”

Robert Ludwiczak – He asked what the additional costs would be.

Roger Shealy – He's not sure if there would be additional costs. He mentioned that someone would take the additional role as Comptroller.

Robert Ludwiczak – He would like this position independent.

John Porter – He asked where money could be saved by adding a Comptroller. He also asked if a Comptroller would have a better understanding of where to place the County's money.

Steve Burdett – He works for the County in Titusville as the Finance Director. He stated that the long term investments are contracted out to a public financial firm. This firm specializes in the investments to maximize returns. He also stated that the short investments are invested in different

vehicles to make sure they are available for the County's operation, capital projects, or whatever the case is.

John Porter – He asked if there are any other ways that the Comptroller could aid the county.

Roger Shealy – He stated that the other constitutional officers are not subject to an internal audit. He thinks a good internal audit department will work with the people that are auditing to help find efficiencies and better ways of doing things.

John Porter – He thinks this would dovetail with the E&OC nicely. He mentioned that the county doesn't have enough up and out thinking.

Dale Young – He stated that this doesn't require reinventing the wheel. There is the Orange County model to follow. He suggested having the Tax Collector as the Comptroller until the next election of 2012. He mentioned that there would be consolidations of functions.

Sue Schmitt – She stated that the County is required by the State to do external audits. Brevard County also chose to contract out with independent CPA firms to do internal audits. She suggested that before the CRC makes any decision; have the constitutional officers come and present how their financial auditing occurs. She also suggested inviting the Budget department, as well.

Ronald Bobay – He stated that he didn't originally consider the Comptroller as being a constitutional officer, but listening to the presentation he got the impression it might need to be a constitutional officer. He thinks it would be a department established under the County Commission, report to the County Manager, and it would be appointed by the County Commission. He thinks the county should be operating as a corporation. The county has independent constitutional offices acting as a mandate from the public to serve. He stated that this is an effort to provide a cross-functional support to all the departments for efficiency. He assumes that each department has staff devoted to keep the accounting and financial records. He does not feel having all these individual departments doing their own financial records promotes efficiency. He doesn't think it should be lodged in an existing constitutional office, because they are semi-autonomous.

Matthew Nye – He is also in favor of hearing from the constitutional officers; however, he thinks it's absurd that there are multiple constitutional officers that are running their offices as a separate silo. He thinks there could be millions of dollars saved a year by making the constitutional offices transparent by streamlining and standardizing on SAP, and things of that nature. He believes the Comptroller should be an elected official, as a separate constitutional officer.

Tom Jenkins – He stated that having served as the CEO of County Government for 17 years he believes he has considerable insight on this topic. He respects their right to their opinion on this topic but he has a number of issues to raise. The following comments were provided by Mr. Jenkins.

- To clarify Clerk of Court's auditing functions
  - Clerk pre-audits all expenditures prior to issuing payment
  - County Commission can assign internal auditing to Clerk or contract to private CPA firms
  - Privatization of government services is typically endorsed by those who advocate running government more like a business
- Commission opted to contract internal auditing to private auditing firms approx. 10 years ago primarily because of poor productivity of Clerk's auditing unit at the time.
- Internal auditing is now overseen by a citizen's panel.
- When considering the number of audits that currently exist how many audits are necessary and cost effective? Every audit is very time consuming for staff and prevents them from performing other tasks. Less government not more government is the preference of many.
- Assertions have been made that considerable savings can result from an Elected Comptroller but no evidence has been provided to support or document those savings.
- One of the assertions made was that Constitutional Officers would save money if they implemented the same financial reporting system (SAP) that the County uses.

The Sheriff's Office obtained a cost proposal to acquire SAP in 2005 and the cost was over \$1 million to do so. That is not a cost savings.

- Under the proposal submitted for the Elected Comptroller the duties of keeping County Commission meeting minutes and Recording of public records was also included. These functions are not financial in nature and could more appropriately be assigned under the County Manager.
- If all the outlined duties for the elected Comptroller are removed from the Clerk of Court's responsibility why would there be a need for an elected Clerk of Court who would only be left with supervising Courtroom Clerks and Court Records. These duties are ministerial or administrative in nature.
- Specifically in the case of the Office of Sheriff many strong "Constitutionalists" advocate the Sheriff has the authority to remain independent of all other units and levels of government.
- What is the justification to empower an elected Comptroller to have the authority or control over an equally elected Sheriff?
- Placing this much authority in a single individual as opposed to an elected Board of five County Commissioners has the potential for abuse of power by using the duties and authority of an elected Comptroller to retaliate against other elected or appointed officials based on personal dislikes or policy differences. I have observed several witch hunts by an elected official based on personal dislikes.
- While Orange and Palm Beach Counties may have elected comptrollers other counties use other structures for their financial functions.
- For those who advocate running government more like a business how do we think the highly successful and widely acclaimed CEO of the Harris Corp. would react to a proposal that Harris' Chief Financial Officer report to someone other than to the CEO of the corporation?

Dale Young – He stated that his proposal would not pertain to the Tax Collector. A constitutional officer would not be created. He commented that the Budget office would still remain under the County Manager.

Bunny Finney – She mentioned that there is interest for gathering of information about the realities of the functions within each of the departments. She stated that if the Comptroller was the one overarching elected person that has jurisdiction relationship with the rest of the constitutional officers, this would elevate the Comptroller to be the top person in the county. She wonders if this should be a charter amendment for a department to be created in the existing government structure. She would like some research done by the constitutional officers and the county budget departments on what things are being audited, and provide a flow chart to see where the gaps are.

**Ludwiczak/Zilaitis to TABLE Proposal #25, until further information is obtained by Martha Haynie, all Charter Officers, County Manager and the independent Auditors to present before the CRC on how their current process is working. The vote was 10-2, with Porter and Nye voting nay.**

Dale Young – He would like a meeting with the Clerk and the Tax Collector to work out some of the transitional items.

Bunny Finney – She asked that there be consistency in the information requested of each of those individuals.

David Tolces – He has done some research on his iPhone, and would like to be able to provide the board with information regarding the establishment and how Orange County went about establishing those positions that are identified in the Charter. It appears there may have been a special act passed by the legislature.

Roger Shealy – He stated that the comment he made about the contracted CPA firms; the fact that their audits are not conducted with internal auditing standards is a county decision, and not a CPA firm.

John Porter – He would like the CRC to keep in mind that there may be some public comments before automatically tabling an item.

Dale Young – He wanted to know if a time certain could be established.

**Nye/Harris to REMOVE THE ITEM OFF THE TABLE. The vote was 11-1, with Jenkins voting nay.**

Ronald Bobay – He asked what we would be asking the constitutional officers to produce. He would like clarification.

**Jenkins/Finney – APPROVE to have the Chair prepare a list of information that would be requested of the constitutional officers with respect to their auditing functions, after discussion.**

John Porter – He asked if this should be another subgroup to look at and decide the list.

Kendall Moore – He's not sure there is enough information for a sub-committee to look at. His intent was to create a broad stroke stating that this has come before the board.

Tom Jenkins – He mentioned that it could take several meetings to hear everyone.

Kendall Moore – He stated that he will prepare a letter of invite and create a schedule for the individuals.

Jim Rosasco – He encourages the CRC to keep the Comptroller at discussion with the full board and not a subgroup. He mentioned that he is on the Internal Audit Committee. He stated that the firms doing the audits are ones that have been doing it for several years. He is not comfortable with the internal audit process. He does not see the qualifications in the audit reports that refer to any standards.

Kendall Moore – He explained that he does not feel that he or the Board has the authority to dig down into individual departments. He stated that he will contact Mr. Ellis. He does not feel comfortable contacting Mr. Burdett's direct reports. He mentioned that with the last request it was asked to be sent to department Directors; however, it was first sent through the County Manager for his approval.

Neta Harris – She agrees that it should be a task for the full CRC. She doesn't feel that we can compel the constitutional officer to attend. She asked how the CRC will stay on task so site will not be lost on other tasks to be dealt with.

Kendall Moore – He mentioned that by policy, for presentations, it would allow 15 minutes for that guest with an unlimited amount for questions from the Board.

Neta Harris – She mentioned that a schedule was established of what was going to be reviewed on a timeframe. She asked if the CRC will stay on track with the schedule.

Kendall Moore – He explained that schedule would continue allowing proposals to be submitted.

**Jenkins/Finney – APPROVE to have the Chair prepare a list of information that would be requested of the constitutional officers with respect to their auditing functions. The vote was unanimous, 12-0.**

**Nye/Harris – POSTPONE DEFINITELY, until January 21, 2010, to allow time to invite Martha Haynie, Charter Officers, County Manager, and independent Auditors to come and present on Proposal #25. The vote was unanimous, 12-0.**

B. Proposal #27 Qualifications for County Commissioners (Bryan Hein)

Kendall Moore – He mentioned to the CRC members that the proposal might have been already discussed in a previous meeting relative to "Oath of Office"; however, in discussing with Mr. Hein, he believed that it was different.

Bryan Hein – He stated that his proposal is to give a written test who would apply for County Commissioner. He stated that we hold grade school children to higher standard than our politicians. He doesn't believe that someone should be able to swear to an oath and be accepted at their word. He thinks they should be tested.

Frank Zilaitis – He stated that he read the proposal and use of the English language not to read as subject to “a test”, but rather “attest” to their knowledge.

Bryan Hein – He stated that was a typo and miscommunication. It should read as, “a test”.

Frank Zilaitis – He wouldn't propose that individuals be tested who are adults and educated, and elected by the public. He passed out a handout he prepared, which was a attestation of County Commissioner-Elect regarding constitution of the United States of America and the Constitution of the State of Florida. He thinks this accomplishes Mr. Hein's concern.

Bryan Hein – He thinks it is a great step towards it. He would like to add language if the person was lying in signing, they forfeit their seat.

Frank Zilaitis – He's not sure if he could go that far. He would have to think about that.

Sue Schmitt – She asked if someone was duly elected for County Commissioner, sworn in, but informs you that they haven't read the constitution; what's the penalty, and how can you stop them from being sworn when they have been elected by the people?

David Tolces – He stated what concerns him is that you would be adding an additional qualification for office, which is governed by the constitution. He would have to research to see if that was permitted.

Matthew Nye – He mentioned the tragedy of the elected officials not understanding the documents.

Neta Harris – She asked what was going to happen with the proposal.

Matthew Nye – He believes Mr. Zilaitis will present his recommendation on a new proposal to come before the CRC.

Kendall Moore – He stated it would reference on the CRC proposal status as, “No action taken.”

Robert Ludwiczak – He stated that Mr. Hein offered a proposal and Mr. Zilaitis offered an amendment to his proposal, but it was suggested that he will come back with a new proposal, but there was no action on Mr. Hein's proposal.

Matthew Nye – He stated that there wasn't a motion to move on the floor.

Robert Ludwiczak – He stated it wasn't asked to accept or reject.

David Tolces – He read Rule 19 into the record for clarification.

**Dale Young moved to have Mr. Zilaitis review and prepare a proposal to bring back to the January 21, 2010. The motion dies due to lack of a second.**

Frank Zilaitis – He senses that he will be wasting his time preparing a proposal; however, he believes people are ignorant to the fundamental documents to which they swear under oath, and is willing to submit the proposal anyways.

David Tolces – He stated in anticipation of presenting the proposal at the next meeting, if the Board wants him to be prepared to discuss, then he can do the research prior to the meeting, rather than waiting until the proposal is presented.

Frank Zilaitis – He stated that he reacted to Mr. Hein’s proposal and made an amendment.

**Zilaitis/Harris – AMEND, Proposal #27 to replace with Mr. Zilaitis’ attestation, as presented, after discussion.**

Neta Harris – She thinks we should ask Mr. Hein if he agrees to the amendment.

Bryan Hein – He appreciates the time, but he doesn’t feel it is different than someone swearing that they’ve done something verbally or writing it down. He stated that it doesn’t prove anything.

**Frank Zilaitis withdrew his motion. Neta Harris withdrew her second.**

**Rosasco/Zilaitis – DENY, Proposal #25, after discussion.**

Matthew Nye – He questioned the reason for making the motion.

Kendall Moore – He explained that there was a motion to amend the proposal, which was withdrawn. The floor was back to Mr. Rosasco who made the motion to deny the proposal, and seconded by Mr. Zilaitis.

**Schmitt/Zilaitis – CALL THE QUESTION. The vote was unanimous, 12-0.**

**Rosasco/Zilaitis – DENY, Proposal #25. The vote was 11-1, with Harris voting nay.**

The next meeting will be held on January 21, 2010, at 6:00 p.m., located in the Florida Room, Building C, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940.

**XI. Adjournment at 8:10 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.