

CHARTER REVIEW COMMISSION
OCTOBER 17, 2005

ATTENDEES: County Manager Kevin Grace
County Attorney Robert McMillan
Carylon Cohen, Deputy Clerk

CHARTER COMMISSION: District 1 - Jane Hammontree
District 2 - Linda Dietz
John Horan
Sidney Miller
District 3 - Grant Maloy
Pamela Ohab (6:06 p.m.)
Chairman Ben Tucker
District 4 - Larry Furlong
Earl McMullen
Jimmy Ross
District 5 - Ashley Johnson
Jeff Triplett
Vice Chairman Egerton van
den Berg

ABSENT: District 1 - Tom Boyko
Richard Harris

The following is a non-verbatim transcript of the **CHARTER REVIEW COMMISSION MEETING**, held at 6:04 p.m. on Monday, October 17, 2005, in Room 3024 of the Seminole County Services Building at Sanford, Florida.

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Chairman Tucker. Mr. Maloy gave the Invocation and led the Pledge of Allegiance. Mr. Maloy announced that Mr. Boyko had hip replacement surgery today and he asked the members to remember him in their prayers.

Chairman Tucker advised that a quorum was present. He submitted to the Record an e-mail from Mr. Boyko and advised he would be absent due to surgery.

Pam Ohab entered the meeting at this time.

APPROVAL OF MINUTES

Motion by Mr. Miller, seconded by Mr. Ross, to approve the Official Minutes of September 22, 2005.

All members present voted AYE.

OCT. 17, 2005

REPORT FROM SUBCOMMITTEE

Mr. Horan reported that the Subcommittee met last Thursday to interview four candidates based upon recommendations to them by various Committee members and certain submissions by others. The four lawyers were: Steven Coover; Judge Freeman; W. Scott Gabrielson; and Alison Yurko. He said in the packets are resumes of the four attorneys the subcommittee decided to short list and interview. He said they were fortunate in the sense that all four are very highly qualified for the position, all have experience in governmental law, and all are very highly regarded attorneys. He said the subcommittee considered and focused specifically on certain topics and questions they wanted answered with regard to their technical knowledge and experience. Based upon the interactions, it was unanimous to recommend to the full Commission the hiring of Alison Yurko as the attorney for the Charter Review Commission. He stated Ms. Yurko represented the Orange County's Charter Commission when it met two years ago. She handled the interview questions very, very well and has a high degree of substantive and technical knowledge. In addition, she has the specific knowledge based upon her experience in writing certain ballot language and amendments that the Commission might have to propose. Also based upon that, he stated it was the unanimous decision to recommend hiring Ms. Yurko.

Mr. Maloy stated at the last Charter Review Commission meeting he mentioned that he would like local expertise to be considered. Mr. Horan said that was one of the questions asked during the interviews. He reviewed the four questions asked of the attorneys.

OCT. 17, 2005

Upon inquiry by Mr. Maloy, Mr. Horan stated that, specifically, two of the attorneys mentioned they had no conflict of interest. He advised that Mr. Coover represents the Port Authority but that didn't seem to be a situation that would pose a conflict. Mr. Gabrielson represents some developers doing some work in Seminole County and a city, which could create a potential conflict.

Upon inquiry by Mr. Maloy, Mr. Horan stated there are two who might be considered to be Seminole County attorneys--they are Attorneys Freeman and Coover. He said it was mentioned that one of the possible problems with an attorney practicing primarily in Seminole County is if they represent Seminole County private or public interests, it may create a conflict. Also with a public body, that might present a conflict as well. In that regard, Ms. Yurko was particularly clean. Discussion continued.

Mr. Horan reported that Katie Reischmann was mentioned, but that firm (Stenstrom, McIntosh) has so many conflicts that they did not consider her.

Mr. Ross stated he was immensely impressed with Ms. Yurko. Even after reading her resume, she was his first choice before he heard her utter a word. He said she was very professional and gave answers he wanted to hear. He added that he is absolutely convinced that she is the one for the position.

Mr. Maloy said he is still a big Judge Freeman fan because of his background of being a Circuit Judge, County Attorney, City Attorney, and helping to draft the Lake Mary City annexation. He likes that he has seen it from all three sides, and he knows his integrity.

OCT. 17, 2005

Chairman Tucker stated, personally, he would like to see a Seminole County attorney practice in Seminole County. He said this is the third review of the charter. It is a fine-tuning and he thinks the more knowledge of Seminole County as a county and what goes on the better. He said that they are supposed to accommodate the needs of the people locally. He thinks that is where they are, and he doesn't know anyone who could do it any better than Judge Freeman.

Mr. Miller said his feelings are to support the subcommittee and what they have done with the interviews. The task was delegated to them, and he thinks they did a very complete job; and he is satisfied with the recommendation of Ms. Yurko.

Motion by Mr. Ross that the Charter Commission select Alison Yurko as their attorney.

Mr. Maloy recommended Judge Freeman as the attorney for the Charter Commission.

Under discussion, Mr. Ross said he believes Mr. Horan indicated there is a difference in attorney fees. He believes the difference is \$75 an hour.

Mr. Horan said the fees ranged from \$175 to \$250 an hour. From the viewpoint of the subcommittee, they did not consider that to be significant. He added that all the rates are very good for the quality of the four prospects.

A roll call vote was taken with Mr. Horan, Mr. Miller, Ms. Johnson, Mr. Ross, Ms. Hammontree, Mr. Furlong, Mr. Triplett, and Mr. van den Berg voting for Ms. Yurko. Mr. McMullen, Ms. Dietz, Mr. Maloy, Mr. Tucker, and Ms. Ohab voted for Judge Freeman. Whereupon, Ms. Yurko was selected by a vote of 8 to 5 as attorney for the 2005/2006 Charter Review Commission.

OCT. 17, 2005

Mr. McMillan brought Ms. Yurko into the meeting at this time. She expressed that she was delighted to get the Commission's vote. She said she has done this process before and is looking forward to working with the Commission.

REVIEW OF CURRENT COUNTY CHARTER

Mr. McMillan distributed a handout (copy received and filed) and reviewed Article 8 of the Florida Constitution, which is the authority by which county governments can be established by charter, and the main difference from charter and non-charter counties.

Mr. Ross asked if the provisions in the County charter could override the provisions in a municipal charter. Mr. McMillan said he couldn't answer without specifics but generally, it could be set forth in the County charter a relationship between the governments. Discussion ensued.

Mr. McMillan continued with review of two mechanisms provided by Chapter 125 for creating a charter; how Seminole County's charter was adopted; the three forms of government under a charter; and ways to amend the charter. He stated the first Seminole County Charter Review Commission met in 1994 and took five proposed amendments to the charter to public hearings. He reviewed these amendments.

During discussion, he advised of two amendments in the charter that are now "moot." Mr. Ross asked if it is appropriate for the Charter Commission to bring the charter up-to-date. Ms. Yurko stated in Orange County, they did a clean-up amendment and took things outdated or illegal and put in that amendment. Whereupon, Mr. McMillan said the Commission may want to do a clean-up amendment.

OCT. 17, 2005

Mr. Furlong stated it seems that wherever in the charter there has been a conflict, it has been dealt with by footnote, with one exception of the school board issue. Then there are several footnotes that revert back to provisions that have been changed. Mr. McMillan said if that has not already been done, he will have it done.

Mr. McMillan noted that the 2000 Charter Commission did not put anything on the ballot and nothing was passed.

Mr. McMillan advised that the BCC has put two charter amendments on the ballot, which is the third way the charter can be amended. He reviewed the two amendments for casino gambling and the rural boundary and rural area. He discussed the challenge by the City of Winter Springs on the rural boundary issue and said the Fifth District Court of Appeals is currently dealing with that case.

Under discussion, Mr. McMillan advised the Charter Commission needs to be very careful addressing the issue of eminent domain. He said they need to be as specific as can be in things they prohibit. Discussion ensued about eminent domain.

GENERAL DISCUSSION

Ms. Yurko said Seminole County's charter has the same language as Orange County's in that when the Charter Commission decides to deliver amendments to the Board of County Commissioners, the BCC is obligated to take those to the voters. She said the Charter Commission is a conduit to the people, so it is a pretty important job. One thing they will find as they go along is that a lot of these questions don't have answers. She said they may find footnotes from time to time in the charter for that reason.

OCT. 17, 2005

Mr. Horan stated he wanted to follow up on the issue of an auditor. He knows it was proposed in 1994, but was not put on the ballot. There was also discussion about it in the year 2000. Mr. McMillan said he doesn't know if this was talked about in 2000 or not. Most of the issues the last time dealt with the financial function of county government and where that was going to reside.

Mr. Horan said the 1994 proposal could have passed and the Clerk would not have been affected in any way. Mr. McMillan said he didn't recall precisely the 1994 proposal. It could have taken something away from the Clerk, but he doesn't recall that it did.

Ms. Johnson stated Florida Statutes 218.391 requires audit committee procedures for governmental entities. It is basically an audit committee that selects an auditor for the county. She said she is not sure of the affect this has had and she will have to do more research on it. Also, other governmental entities have used such committees not only for selection of an auditor, but as a conduit to the Board and for management discussion. She said this may be something they need to look at closer.

Chairman Tucker said looking back at the first Charter Review Commission concerning an auditor, he thinks there was the thought of not interfering with any of the constitutional officers, and that was why that approach was taken. It was a more friendly approach, but the intent was there to accomplish what was taken up in the second Charter Review Commission in 2000.

OCT. 17, 2005

Mr. McMillan said many of the proposals in 1994 came from the relationships between the then county manager and Board as a whole.

Mr. Horan stated he understands Orange County has a comptroller that was not created by the charter, but by special legislation.

Mr. Ross stated they will have an opportunity to have this issue on the agenda at the next meeting. He said he has already given Mr. Grace the issue of transferring the accounting functions, etc. of the Clerk of the Court to the County Manager. This will give the BCC some directions on how things go, through the County Manager, as far as the accounting the Clerk does for the BCC. He said he recognizes at the same time that the bureaucracy is already in place for that function. He said his position is they are here to serve the people of Seminole County, and they ought to do things to protect the public from the bureaucracy.

Mr. van den Berg stated it would help him tremendously to have more information before personally saying there is a problem, or if there is, if it needs to be corrected or how best to correct it. He said he would personally like to have copies of any financial and performance audits that have been prepared with respect to the operations of the Constitutional Officers, BCC and the County Manager during some convenient period (the last four or two years). He said if audits are being performed, it would be very helpful to him to know how frequently they are done, the level of detail, what sort of review they get, and what sort of response and feedback is received. He asked, specifically, what policies or programs are in place to oversee

OCT. 17, 2005

investments; is there an investment advisory process in place or should there be one?

Mr. Grace said he and the Clerk could come up with those reports.

Chairman Tucker suggested the Commission have a presentation from the Clerk's Office. He asked Bob Lewis (in the audience) if he would be inclined to make that presentation. Mr. Lewis answered no, but he does have some answers regarding some of the questions. He said he is sure Maryanne Morse, Clerk, would be happy to come and make the presentation.

Whereupon, Chairman Tucker asked if that was what the Commission wishes. Mr. van den Berg stated he would like to have a presentation after having had the chance to read the information requested.

Mr. Lewis advised Mr. van den Berg that the Clerk has copies of all the audits he requested and can make those available tomorrow.

Ms. Johnson asked are they evaluating performance in personality or structure at a whole level. She said she is not sure what relevance there is for past performance. If they look at neighboring charters, many of them define where finance lands. She said standards are coming out all the time under the governmental board that overrides governmental accounting as far as what is required. She said that may be a question more for an audit committee to review. Her question is, are they looking at the structure. She doesn't understand what a presentation from the Clerk will do for the Charter Commission making a decision as to where that particular function falls.

OCT. 17, 2005

Mr. Horan said he would like to know why the Florida Constitution has it set up that way, that the Clerk of Court basically handles the financial aspects.

Mr. van den Berg asked if it is in the Constitution, how have some counties changed it by charter. Mr. McMillan answered it was done by the charter or by a special act.

Mr. Triplett left the meeting at this time.

Mr. Horan continued that he would like to know how it is set up, why is it set up that way, how does it work when it works well, and if it doesn't work well, why do people change it.

Mr. van den Berg stated any governmental audit is going to have management comments and they may be bland or critical, but they all should be addressed, and there should be a trail to show what was done in response to any comments on management that have a potential impact on finances. He just thinks it is unfair to say they ought to change something when they don't know what something has. He has seen other charters that seem to have some wonderful provisions about performance audits and financial audits, and maybe that is a good thing to do. If it's being done extremely well now; if it isn't broke, don't fix it.

Mr. Triplett returned to the meeting at this time.

Mr. Ross read what the State Statutes says on the Clerk's duties. He said his proposal is that all powers and duties now and hereafter prescribed by Constitution of the Office of the Clerk of Circuit Court which relate to functions of ex-officio Clerk and accountant for the BCC, auditor and custodian of all County funds, are hereby transferred to and vested in the office of the County Manager. He said the Clerk can do these duties with the bureaucracy now in place, but the BCC needs to have

OCT. 17, 2005

some power of direction over how the money is being controlled, spent, etc., and currently they have none.

Ms. Johnson said she sees two very separate issues. First is the audit committee/audit function. That is what Mr. van den Berg has alluded to. She said audit function may be separate from where the finance office physically lands and the structure. She suggested those two issues be separately evaluated as a strong audit function would override the structure either way. The actual structure where finance lands needs to be evaluated in a historical context and where this Commission feels it should be for the long term, but not with past personalities or current personalities. She stated she has never met the Clerk of the Court and has no idea of what she is like and has "no dog in that hunt," and that's the way it should be. She further stated that the Charter Review Commission is making decisions that will affect generations to come. She thinks they need to have a very objective view about what they want. They need to ensure there is control and financial soundness in the County, and the structure issue is different.

Mr. Horan said he agrees if it's not broke, let's not fix it. One of the things he doesn't understand is when the audit is done by one Constitutional Officer, the Clerk of Court, and she is auditing financial matters of the County offices, what then happens with that. He said audits and reviews are supposed to have some kind of beneficial thing happening. If the Constitutional Officer doesn't have anything to do with the operations of the County, then how is she going to be making some kind of recommendations concerning changes, performance, etc., concerning operations that are basically run by Mr. Grace?

Mr. McMullen left the meeting at this time.

OCT. 17, 2005

Mr. Horan asked how does that work and if it doesn't work well, is there a way they can change it legally so that it works better.

Mr. Furlong stated he is interested to know if once they start entertaining proposals for charter changes to be presented to the voters, would there be an opportunity for the affective parties to have time to present their comments as well as give the Commission time to review those comments. He said the impacts of these amendments can be significant over long periods of time. Before he feels like he's in a position to make an informed decision, he will need to hear from some other folks besides the advocates for particular amendments.

Mr. Furlong asked if the procedure is that a proposal is submitted; there is clarification discussion of what the intent of the amendment is; there is time for the affected parties to make a presentation; and then they enter into more detailed discussion. Chairman Tucker said that is what he would advocate; to have input from specific experts.

Mr. McMillan noted that the charter requires three public hearings.

Mr. Furlong said he would like there to be a time for group entities to prepare a response and state if this were to pass, what are some of the impacts.

Mr. McMullen reentered the meeting at this time.

Mr. Furlong said this could be presented to the Commission and they could use that information in their decision-making process to decide if they want to advance this idea to the public hearing stage.

Mr. van den Berg stated he endorses Mr. Furlong's comments whole-heartedly. He said it is not his intent to cast any

OCT. 17, 2005

shadow on the performance of any incumbent person or system. They should be looking at whether structurally it is optimal and if in practice, it is producing an excellent result. To find that out, you have to listen to the people involved and then form an opinion whether this is something that needs to be changed or not.

Mr. van den Berg asked if there are any restricted funds or receipts of the County that are outside the oversight of the Clerk.

Mr. Lewis answered that some of the grants on the Sheriff's side are.

Mr. Grace answered there are none, under the Board of County Commissioners, that do not fall under the oversight of the Clerk. He explained the BCC is involved in all of the grants until they get to accounts payable and accounts receivable, and the Clerk handles that part.

Mr. Maloy stated on any proposed amendment, they are supposed to have three public hearings. He asked if they could be tweaked in some of those final meetings. Ms. Yurko said it depends on what the Charter Review Commission changes. She would have to look at the notice.

Mr. McMillan added that you can't add anything that has been taken through the three public hearings. The Commission has to take the proposal through the three public hearings. The Commission couldn't change the intent of the amendment. Ms. Yurko added that it's the same as with an ordinance.

Mr. Miller said something is missing for him in the procedure of where they are going and what they are going to do. He keeps hearing ideas come up but they have not had an idea-generation session, and now they have issues and are talking

OCT. 17, 2005

about public hearings already. He thinks they are due some data gathering and opportunity to come up with five or six ideas that are worth pursuing. He said some structure like that would be useful to see how they will get from where they are now to where they need to be before they set a public hearing.

Chairman Tucker said they will have public input at the November 7 meeting. He believes there will be a public release by the County Manager's staff for that meeting.

Mr. Triplett advised the public release already went out.

Chairman Tucker said after the November meeting, he thinks the Commission can start going down the list of issues.

Mr. Grace suggested the members put their ideas in writing and send them to him. He said it helps to get them all on paper to see. He also said he has not received anything from anyone other than from Mr. Ross. He said it would be a good idea to do that between now and the next meeting. Hopefully, they will get something from the public at the next meeting and then the Commission can start talking about what they want more information about. He explained what helped the last time was once they get to that, then they can take the next several meetings and break the issues down to take up two or three at a time and schedule the reports and experts to bring in for presentations.

Chairman Tucker advised there will be no shortening of issues and everything will be discussed.

Mr. Triplett said he doesn't want to be part of any private poll.

Chairman Tucker also advised that there will be no shortage of private input to the Commission members. They will all get calls and information and that is fine in his opinion. He said

OCT. 17, 2005

in talking about whether there is a procedure for audits, and talking about an auditor, in his opinion, the big important thing of that office is the people's perception of whether or not it is getting done. He doesn't think the people perceive that management audits are getting done. If the Commission can put that forward and have the people perceive it, then that's who they need to represent. He added they are here to represent the people.

Mr. Ross stated in the past, Mr. Grace has sent out the agenda and the people affected have been invited to come to a meeting. They have come to speak and the Commission listened, and there was a lot of discussion. He said he echoes what the Chairman said that they are here to represent what's best for the people of Seminole County and to affect government. He said he has no personal agenda at all. However, he said he does have a philosophy about government and how it ought to serve the people.

Mr. van den Berg stated he has read the various measures that were presented six years ago and he knows they have peers in their group who intend to redirect some or all of them. He said certainly some of them ought to come up again, but it's probably not as productive to go back over those. He personally feels it is more productive to look elsewhere or to be selective about which measures they bring back up again.

Mr. van den Berg said he thinks it is Polk County that has in their charter a County Efficiency Commission that just looks at the efficiency of county government. He stated he thinks that is an intriguing idea.

Chairman Tucker said the County has at least three overall committees that are supposed to be bringing city and county

OCT. 17, 2005

issues together. They have matrix committees that bring them together and discuss what's efficient. He said the Charter Commission may want to look at a matrix committee that would say to the cities and county, let's take a look at those areas where we can be more efficient.

NEXT SCHEDULED MEETING

Upon inquiry by Chairman Tucker, Mr. Grace advised the next scheduled meeting is on November 7, 2005 at 6:00 p.m. in Room 3024.

TOPICS FOR NEXT MEETING

Mr. Maloy stated he understands they are to start submitting any ideas they have and try to get those in by November/December and dispense with them if they don't agree.

Mr. Furlong suggested making the next meeting one for the public to come and if nobody shows up, they could adjourn.

Ms. Yurko suggested the Commission might want to use that time as a brain-storming session for their own ideas.

Whereupon, Mr. Grace suggested that between now and the next meeting, the members should get their ideas to him, and he will try to get the list of those to the entire Commission before the next meeting so they can begin working on them.

Mr. McMullen asked what was decided regarding Mr. Furlong's suggestion, and Chairman Tucker stated if no one from the public shows up to speak at the next meeting, he would like to hear what everyone else brings for discussion.

Upon inquiry by Mr. Maloy, Chairman Tucker suggested that ideas be submitted to Mr. Grace and he, Mr. Grace and the attorney will prioritize them. Discussion ensued.

Mr. Furlong said no to this suggestion.

OCT. 17, 2005

Ms. Dietz suggested grouping the same ones together. Mr. Grace indicated he did that the last time in case there was some duplication.

Mr. Miller said he liked the idea of getting a list with a name so they can all identify what's on the list. He also likes the idea of them multi-voting or using some process for them to tell what ideas they think might have a chance.

Chairman Tucker stated he thinks that's a good idea.

Ms. Johnson said they may want input from experts and that may need to be arranged in advance.

Chairman Tucker agreed that is something they want to always keep open. He advised Mr. Miller that in addition to the public hearing at the next meeting, they will begin with putting the list up and start the process.

Mr. Grace reminded the members if they can get those issues to him ahead of time, he can get the e-mails to everyone as opposed to handing out the list at the meeting.

Chairman Tucker adjourned the meeting at 8:11 p.m., this same date.