

# MINUTES



May 8, 2006

**Motion** by Mr. Lovestrand, seconded by Mr. Horan to approve the Subcommittee minutes dated April 24, 2006, as corrected.

All members present voted AYE.

**EMINENT DOMAIN**

Attorney Alison Yurko stated the House and Senate have passed a bill that really puts a stranglehold on the use of eminent domain for private property purposes. She stated it basically takes away the authority of a CRA to use eminent domain and it takes away the authority of a county or city to use eminent domain for purposes of eliminating a public nuisance or blight. It also takes away the ability to take public property for private purposes unless you are a utility or common carrier, or if you have a lease and that part of that lease for public property or public facility is going to be used for the purpose of providing something for the public, or if 10 years have lapsed and you offer the property back to the previous owner at the same price there is no more private purpose.

Upon inquiry by Mr. van den Berg, Ms. Yurko advised it is not a constitutional amendment; it is a revision to Chapters 73, 74, 163, and 166.

John Horan advised that this action will take effect upon becoming a law and applies to all properties for which a petition of condemnation has been filed pursuant to Chapter 74 and 75 of the Florida Statutes. He stated he doesn't know of any indication that Governor Bush is not going to sign this.

Ms. Yurko advised that she has extra copies of the eminent domain bill if the CRC would like to review it.

**FINANCIAL FUNCTIONS, AUDITING & AUDIT COMMITTEE**

Ashley Johnson advised the Subcommittee came up with three amendments. She stated the first amendment is Creation of an

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Audit Committee, and the structure of the Audit Committee will comprise of eight members with five voting members (appointed by each County Commissioner) and three non-voting members. One of the non-voting members will be a county commissioner. One will be the person responsible for audits who would be the County Clerk or the County Manager depending on how the other amendments go. The terms of service are set for two years. She stated the second amendment basically broadens the scope of internal audits covering the Constitutional Officers. The third amendment is the Clerk's Function with two sections, the first is creating an internal auditor and that would basically be on the same line with the organizational chart (received and filed). She stated section two of the Amendment #3 would be moving the fiscal functions from the Clerk to the County Manager.

Ms. Johnson explained for Mr. Furlong what role the audit committee plays in creating the internal audit and why there would be eight members.

Commissioner Carlton Henley entered the meeting at this time.

Ms. Johnson explained for Mr. Furlong what would be the purpose of the committee structure.

Mr. van den Berg stated he feels these amendments need some refining, but the thoughts of the subcommittee are well preserved.

Mr. Lovestrand stated he is wondering if a County Commissioner would want to be on the committee since they are so busy now.

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Mr. Furlong stated he feels that the way this is set up, a county commissioner would have a high level of interest of being on the audit committee as a liaison position.

Ms. Johnson stated the CRC can decide whether they want to spell it out in tighter language of charging the audit committee the ability to create their own charter. The Charter would then lay out the responsibilities and what the audit committee reviews and how detailed they review it. The audit committee may be made aware that a particular policy procedure that comes from the BCC needs to be implemented, changed, and created as a result of something that is found through the internal audit committee report then that Board member would have greater knowledge as to how it should be formed and how it should be brought forth. Discussion ensued between Ms. Johnson and Mr. Furlong relative to how other audit committees and internal audit systems function.

Mr. Furlong stated he has concerns that you could end up with five political appointees comprising with the purpose of the internal audit function for political or other personal reasons. He stated he feels the appointees must have X number of years experience.

Ms. Johnson stated they can do that but she would hesitate making it too tight. She stated the subcommittee felt that a background of accounting and finance should be included. She said she wouldn't limit it to CPAs as many people have experience in finance for many years. She stated the other issue is whether or not they should have a background in law. She added she is not sure how to tighten it further without restricting the pool of people who would be qualified to serve on the committee.

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Jeff Triplett entered the meeting at this time.

Mr. Miller stated for the past seven years he has been the beneficiary of regular audits by the State Auditor through Seminole Community College (SCC). He stated the worst audit they had was tremendously useful to the college as they were able to change their accounting software. When you make a major change and have an independent auditor come in to see where the money is flowing and how the procedure works is the best tool in the world for closing the gaps.

Mr. Furlong stated the School Board would get 25% useful information and 75% unnecessary paper with State Audits. He recommended allowing the BCC appoint only two members and then each of the Constitutional Officers appoint someone on that committee with the same requirements. He stated they might get less of their auditors coming in if they include all of those people in the process.

Ms. Johnson stated if the second amendment fails including the Constitutional Officers and the scope of internal audit, then they would have three members of the audit committee, for which the internal audit does not audit.

Mr. van den Berg stated there might be a way to transition that.

Ms. Johnson stated the whole point is to be independent as possible and any way they can achieve that would be better all the way around. Discussion ensued.

Mr. Furlong stated he feels that might be inclusive of the purpose of the scope to keep it broad. He stated they are talking about five entities beyond the County Commission.

Mr. Hammontree stated they may need to restructure the term according to the district they were appointed from.

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Mr. Tucker stated Mr. Furlong is recommending two from the BCC and then five from the Constitutional Officers.

Ms. Johnson stated she has no objections to that.

Attorney Yurko stated even though the Constitutional Officer Amendment doesn't pass, it might be a good check and balance to have them appointing some members. She stated she is concerned about creating contingency for the amendments.

Ms. Johnson stated paragraph two of the committee structure would require one voting member selected by each BCC.

Mr. Horan recommended two voting members from the BCC and five from the Constitutional Officers.

Ms. Yurko stated she cannot remember if ex-officio members are subject to the Sunshine law. If they are, that may be a complicating factor with the auditor and CFO not being able to discuss things with each other. She stated she would have to look into that.

Chairman Tucker and Ms. Yurko discussed the issue of an ex-officio being subject to the Sunshine law.

Mr. van den Berg explained for Mr. Miller what action the audit committee can take other than recommendations to the BCC or to the auditor.

Mr. Miller stated he feels it should be clear whether they are creating authority in this committee or creating them as an advisory board for recommendation.

Mr. van den Berg stated in the first draft there was a provision for the committee to create its own charter and in the interest of brevity, he suggested that be removed. An ordinance would go into the detail of that. If the CRC is more comfortable making a provision for the committee to prepare a

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charter to govern its activities and present that for approval, they can include that.

Mr. Horan stated once the ordinance is passed and the audit committee is formed, whether or not it is in the ordinance, he would presume the audit committee would adopt certain by-laws or rules of procedure. Therefore, he doesn't feel they need to recite that in the amendment itself.

Mr. van den Berg stated they could say they shall have a charter substantially similar to the document that Ms. Johnson has as that would be very specific.

Mr. Horan stated he is in favor of flexibility.

Chairman Tucker stated if they go with seven members (two from the BCC and one from each of the Constitutional Officers) that would resolve one issue. But if they go with non-voting members that would create an unworkable situation.

Mr. Furlong stated he feels the person responsible for the audit should be eliminated.

Chairman Tucker stated he believes the CRC is recommending that two voting members be selected by the BCC, one voting member from each of the Constitutional Officers.

Upon inquiry by Mr. van den Berg, Mr. Horan advised if Amendment #2 doesn't pass, he feels it will put in a check and balance independent from the outside because the Constitutional Officers will be appointing five of the members. He explained how to control this in a political sense.

Mr. van den Berg stated he is not in favor of that. He stated there are four of five charters in Florida that have an audit committee and none of them include representatives outside the appointment of the BCC.

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Mr. Furlong recommended having one or two stand-alone charter amendments instead of three. He stated he would recommend combining amendments one and two so that the audit committee structure and who they are going to audit is voted on at the same time.

Mr. van den Berg stated the subcommittee's thought was if someone wanted the audit committee but didn't want Constitutional Officers included, then it would be to the disadvantage of the audit committee's proposition of lumping them together. He stated he feels it would be better to try to rewrite amendment number one so that, in the event that the Constitutional officers fall within the purview of the committee, the membership shall be different.

Mr. Furlong stated he doesn't have any objections to that.

Mr. van den Berg stated Amendment #3 transfers the Clerk's financial function to the County Manager's office and that stands alone. He stated he feels that it is not linked to the others.

Ms. Johnson stated she believes they can say "if the Constitutional Officers at any time are not subject to internal audit by the County, the committee shall be designated as five members selected by each County Commissioner". She stated there may be some point in the future that the State may say that the Constitutional Officers cannot be audited by local governments.

Chairman Tucker stated the non-voting members may be left out totally. He stated he believes there is consensus to paragraph two of the first amendment. He asked if there were any additions or changes to paragraph one.

Ms. Hammontree stated they need to change it to seven members instead of eight.

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Upon inquiry by Chairman Tucker, Attorney Yurko advised the word "eight" in line three will be changed to "seven".

Ms. Johnson explained for Mr. Miller how the committee ensures prompt consideration of the audit findings.

Mr. van den Berg stated they would report it to the BCC if audit findings are not being followed up and something needs to be done about it.

Ms. Johnson briefly reviewed paragraph three.

Mr. van den Berg requested that the subcommittee be allowed to work out a new idea of having an alternative in the event the Constitutional Officers come under audit.

Chairman Tucker asked if there are other issues the CRC wants the subcommittee to look at and is there consensus with the changes noted to paragraphs one and three. The **CRC agreed** to move forward with that.

Ms. Johnson continued by reviewing Amendment #2, Audit of Constitutional Officers.

Upon inquiry by Mr. Furlong, Mr. Horan advised the Constitutional Officers' finances are still subject to all the regulations of the State. He stated whatever the Constitutional Officers have to do to comply with State requirements, he presumes they will continue to do that. There is nothing in this that is inconsistent with that.

Upon further inquiry by Mr. Furlong, Mr. Horan advised he presumes that each of the Constitutional Officers have different types of requirements in terms of their internal financial operations. He stated he believes the internal auditor and the audit committee will take all of that into consideration when they do the audits of the Constitutional Officers.

DCM, Sally Sherman, entered the meeting at this time.

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Chairman Tucker stated he believes there is **consensus** to move forward with Amendment #2.

Ms. Johnson reviewed Amendment #3, Clerk Function (Creation of Internal Auditor and Finance Function). She stated after much discussion about where the chief auditor would fall, the subcommittee thought it would be best to promote a position of a county auditor that would report directly to the BCC and the alternative would be through the County Manager. The subcommittee felt that the potential issues and scope of communication would be best directed to the BCC. She said this first section creates an internal auditor which assumes the auditing function.

Chairman Tucker asked if the subcommittee put any thought to whether or not the removal of this position should be by more than a simple majority of the BCC or should this be an elected position.

Ms. Johnson stated the subcommittee did discuss about an elected position potentially being compromised from a political standpoint; and determined that it should be appointed, and the credentials of this person would be better evaluated by a smaller group versus a popularity contest.

Mr. van den Berg stated he would assume the auditor would have a negotiated contract with the County which can be removed by three votes.

Ms. Johnson stated with the audit committee in place, they can provide additional input directly to the BCC on the performance of the County Auditor.

Mr. Furlong stated he doesn't think the County Auditor's position should be more sacred than the County Manager.

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Ms. Johnson concluded by reviewing the Finance Function of Amendment #3.

Chairman Tucker asked what the ramifications would be if Amendments #1 & #2 passes and Amendment #3 does not pass.

Ms. Johnson stated the functions would stay with the Clerk and the internal audit supervisor will report to the audit committee. The audit committee would still review items and make recommendations to the BCC. The remaining functions would still work the same way as they have been.

Chairman Tucker stated he would like to see something pass to the system; but he has strong reservations as whether or not Amendment #3 would pass. He stated he personally feels that appointing is not a good idea but if that is the way the CRC wants to go, then that's the way they will go.

Mr. van den Berg stated if they went through elected auditor now, it may be more effective to have an elected auditor at a later date. He stated he feels this is a huge jump to where they are now.

Chairman Tucker stated he has great faith in the public making a decision on this position.

Ms. Hammontree stated the CRC has voiced that possibly if it was an elected position, it would just be another position like it is now and not really cure as much as it should be.

Ms. Johnson stated if it is an elected position she would hate to see audit issues become election fire.

Chairman Tucker stated he would hate to see audit issues become the domain of a strong commission.

**Motion** by Mr. Horan, seconded by Mr. Lovestrand to adopt the three proposed amendments as redrafted, consistent with the discussions held this evening.

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Under discussion and upon inquiry by Attorney Yurko, Ms. Johnson advised they are not going to reference in Amendment #1 that there will be a charter for the audit committee.

Mr. Horan stated the language will be cleaned up as well and that will be part of the motion as well.

**A roll call vote on the motion** was taken with all members present voting AYE.

**MEETING SCHEDULE**

Chairman Tucker referred to the public hearing schedule (received and filed) and stated the final wording for the private property rights issue is complete and voted upon. He stated the CRC is not in conflict with State Statutes.

Attorney Yurko stated she will look into that. She stated she will provide a summary of same and she will bring that back to the CRC at the next meeting.

Chairman Tucker stated the final verbiage on the amendments discussed tonight will be provided at the next meeting. He stated the following issues will be discussed at the next meeting (May 15, 2006): Private property rights; ethics; and BCC salaries.

Mr. Fisher advised the CRC voted to adopt the BCC salaries by ordinance.

Mr. Horan stated he is planning to bring a final proposed amendment on the additional public hearings for charter amendments.

Mr. Furlong asked if they are going to review the issue of campaign contributions.

Attorney Yurko referred to and reviewed the limitations of Sarasota County's campaign contributions. She stated Mr. Furlong is waiting on the financial analysis from her.

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Mr. Furlong stated he would like to set it at \$100.

Mr. van den Berg stated the subcommittee on ethics did not report favorably on the lobbyist issue.

Upon inquiry by Chairman Tucker, Mr. Fisher advised there were three other issues that the CRC wanted to discuss and those were the Taxpayers Bill of Rights; Various Actions Performed by Ordinance; and Officers of the County.

The CRC discussed and determined that the Taxpayers Bill of Rights was voted down by the CRC as well as the Various Action Performed by Ordinance.

Upon inquiry by Mr. Miller relative to Officers of the County, Mr. Horan advised he had a specific proposed amendment for that and it was voted down.

Chairman Tucker reiterated that the issues voted down were Taxpayer Bill of Rights, Officers of the County and Various Actions Performed by Ordinance. He stated the lobbyist issue, Mr. Horan's issue, and campaign contributions will be discussed at the next meeting. The CRC **agreed** to discuss the issue of campaign contributions this evening.

#### CAMPAIGN CONTRIBUTIONS

Mr. Furlong stated he believes the way to improve the political landscape is to limit campaign contributions to \$100. He stated this would make it more difficult to raise money and force candidates to do more "non-cash related" or "paid-for" campaigning. This would potentially require the candidates to spread their message and receive money from a broader spectrum of people. This would include county government as well as Constitutional Officers.

Mr. Lovestrand stated he believes that this would give another advantage to the incumbents who know more people. He

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gave some examples of what happened in campaign contributions when he ran for office. He stated he feels there are so many ways around it that the incumbents will have more advantage than they have now.

Mr. Furlong stated he feels that makes a pretty significant difference and it could help the incumbent if they had better name recognition; but when you're an incumbent it's a lot easier to raise money. However, this would level the playing field.

Upon inquiry by Mr. Miller, Mr. Furlong advised he would recommend the limitation for all countywide offices.

Mr. Horan stated if you want to change politics for the better you should try to eliminate it to the extent possible the effect that money has on campaigns. Every time you try to do it by setting a limit on it, you do have to let everyone participate. It would be great if people would take enough interest in political campaigns to donate \$10 to \$20, but it doesn't happen that way.

Attorney Yurko stated she doesn't think the CRC has the legal authority to include the School Board, but she would check into that. Discussion ensued.

**Motion** by Mr. Furlong to direct Ms. Yurko to draft an amendment limiting campaign contributions to \$100 for county offices, including the BCC and Constitutional Officers, per cycle.

Chairman Tucker called a **second to the motion** three times without response, whereupon, the motion **died** for lack of same.

Chairman Tucker stated there will be six topics of discussion scheduled for the May 15, 2006 meeting. He stated four have been voted upon and two new ones.

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Ms. Hammontree advised that Salaries of the BCC issue has already been voted upon by the CRC.

Attorney Yurko advised she will put that issue into the proper form.

Chairman Tucker advised those five items will be the topics of discussion scheduled on May 15. He stated the first public hearing is scheduled for May 30, 2006 and if there are no new issues at that hearing, they will have a second and third public hearing on all the issues. They will have a fourth public hearing (July 12, 2006) if something new comes in. He advised the CRC will meet on July 17, 2006 to confirm everything that they have done.

Mr. Miller asked Mr. Furlong if he would be interested in restating his motion with a limit of \$250.

**Motion** by Mr. Furlong, seconded by Mr. Miller to limit campaign contributions to \$250 for county offices, including the BCC and Constitutional Officers.

**A roll call vote** was taken on the motion with Mr. Miller and Mr. Furlong voting AYE. Mr. Horan, Mr. McMullen, Ms. Johnson, Mr. Lovestrand, Mr. van den Berg, Mr. Tucker, Mr. Boyko, Ms. Hammontree, Ms. Ohab and Mr. Triplett voted NAY, whereupon, the motion **failed** for lack of a majority vote.

Mr. Fisher explained for Mr. van den Berg what the purpose was of the July 18, July 25, and August 9, 2006 dates.

Chairman Tucker stated he will not be attending the third public hearing (June 29, 2006) as he will be out of town. The CRC consented to scheduling the July 17, 2006 meeting at 6:30 p.m.

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Mr. Triplett advised he probably will not be in attendance for the June 14, 2006 public hearing due to the birth of his son being scheduled at that time.

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There being no further business to come before the Commission at this time, Chairman Tucker adjourned the meeting at 8:13 p.m., this same date.