

Clearwater, Florida, March 9, 2010

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held at the Mid-County Tax Collector's Office Training Room, 13025 Starkey Road, Largo, at 4:01 P.M. on this date with the following members present:

Ronnie E. Duncan, Chairman
Diane Nelson, Pinellas County Tax Collector
Andy Steingold, City of Safety Harbor Mayor
Kenneth T. Welch, County Commissioner
Gerald A. Figurski
Deborah Kynes
Raymond H. Neri

Not Present:

James Angle
Ed Hooper, State Representative

Late Arrival:

Paul Bedinghaus
Ricardo Davis, Vice-Chairman
William B. Harvard, Jr.
Melissa B. Jagger

Also Present:

Susan Churuti, Attorney, Bryant Miller Olive, P.A.
Kurt Spitzer, Consultant, Kurt Spitzer and Associates, Inc.
Elithia V. Stanfield, Assistant County Administrator
Other interested individuals
Tammy L. Burgess, Deputy Clerk

AGENDA

- I. Welcome
- II. Approval of Minutes
 - ▶ February 9, 2010 Meeting
 - ▶ February 22, 2010 Meeting
- III. Public Comment
 - ▶ Audience
 - ▶ Website Submittals

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- IV. Presentations
 - ▶ Andy Steingold, Mayors Council of Pinellas County
 - ▶ Jim Lawrence, Barrier Islands Governmental Council
 - ▶ Council of Neighborhood Associations (CONA)
 - ▶ Ethics/Lobbying Policy
- V. Review of SB 216 (2009) and Limitations Applicable to the CRC
- VI. Open Discussion
- VII. Adjournment

WELCOME

Chairman Duncan called the meeting to order at 4:01 P.M., noted that a quorum was present, and welcomed those in attendance.

MINUTES OF THE MEETINGS OF FEBRUARY 9, 2010 AND FEBRUARY 22, 2010

Chairman Duncan presented the February 9, 2010 and February 22, 2010 meeting minutes; whereupon, Mr. Figurski moved, seconded by Ms. Kynes and carried, that the minutes be approved as submitted (Vote 7 – 0).

PUBLIC COMMENT

Audience

In response to the Chairman's call for individuals wishing to be heard, Norman Atherton, Palm Harbor, appeared and proposed that there be five at-large county commissioners.

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At this time, 4:04 P.M., Ms. Jagger and Mr. Harvard entered the meeting.

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Norm Roche, Clearwater, appeared and submitted a document titled *Pinellas County Charter Review Recommendations*, which has been filed and made a part of the record, and disclosed that he is a Republican candidate running for the county commission in the November election, but that he is appearing as a citizen. Mr. Roche proposed that membership on the Board of Commissioners (BCC) be limited to two four-year terms or, in the alternative,

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the individual seats be limited to two four-year terms; that the Supervisor of Elections, Board of County Commissioners, Clerk of the Circuit Court, Sheriff, Property Appraiser, and Tax Collector all be made non-partisan seats; that the Supervisor of Elections, Property Appraiser, Clerk of the Circuit Court, and Tax Collector be removed from the election process altogether; that the Property Appraiser and Tax Collector offices be consolidated; and that the Public Works and Utilities departments be consolidated.

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At this time, 4:08 P.M., Mr. Davis entered the meeting.

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Commissioner Welch related that the County Administrator is considering consolidating Utilities and Public Works to address the budget deficit this year; and Mr. Roche clarified that he is recommending that term limits be applied only to the BCC at the present time.

City of St. Petersburg Councilmember Jeff Danner appeared and discussed the potential consolidation of the Metropolitan Planning Organization (MPO) and Pinellas Planning Council (PPC); indicated that he met with Representative Kriseman, PPC Executive Director Dave Healey, Pinellas County Planning Director Brian K. Smith, and County Administrator Robert S. LaSala last week. He stated that pursuant to an agreement reached at that meeting, a committee comprising BCC, PPC, and MPO members will be created to address some of the details not included in the bill related to representation, duties, responsibilities, and staffing; that the committee will provide recommendations to Representative Kriseman before the bill is resubmitted in November; and that meeting dates will begin to be scheduled after the committee membership has been finalized.

Mr. Danner requested that the CRC, after its deliberations are concluded, make a recommendation to the BCC and Representative Kriseman if the issue is not put on the charter. In response to comments and queries by Mayor Steingold regarding the BCC currently sitting as the Countywide Planning Authority (CPA) and the cities requesting CPA representation separate from the BCC, Mr. Danner indicated that the composition of the CPA is the main issue and will receive the most discussion; and that the intent is that the new body created by the consolidation will adopt and amend a countywide plan and make recommendations back to the local municipalities, thereby taking away authority from the County as the CPA; whereupon, he offered to attend all future discussions regarding the issue; and Chairman Duncan pointed out that discussions regarding the PPC issue are scheduled to begin at the March 22 CRC meeting, and invited Mr. Danner to attend the meeting.

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Bill Israel, South Pasadena, appeared, indicated that he represents the South Pasadena Golf Club Estates Civic Group, and expressed concerns regarding the inequitable method of determining millage rates for dependent fire districts; whereupon, he urged the CRC to consolidate all of the fire districts or, in the alternative, consolidate all of the dependent fire districts into a single district or single planning and budgeting function so that the millage rate applies equally to all of the districts, as it does for emergency medical services.

Website Submittals

Chairman Duncan pointed out that copies of the website submittals are included in the agenda packet; and expressed his satisfaction with citizens using the website to make comments and suggestions.

PRESENTATIONS

Mayors Council of Pinellas County

Mayor Steingold indicated that the Mayors Council does not perceive any contentious issues, but it does request that the CRC not make any changes to the Charter that would impact home rule or the dual vote provision. He indicated that home rule is defined as allowing cities to operate independently; that the County agreed in the May 2, 2007 settlement agreement that the dual vote provision is Constitutional and that it will not seek a referendum to remove the provision from the Charter; and that the settlement agreement precludes the CRC from addressing certain issues. Mayor Steingold pointed out that consolidating fire and emergency management services (EMS) would be an invasion of the home rule authority granted through the Florida Constitution and Florida Statutes, Chapter 166, noting that fire and EMS services are provided at different levels depending on the city or the part of the county.

Attorney Churuti added that many of the dual vote provisions are also Florida Constitution protections; that the Constitution states that functions or powers require a dual referendum; and that the Charter states that functions, services, powers, or regulatory authority require a dual referendum by a vote of the electors, not the elected bodies, noting that the court retains jurisdiction to enforce the terms of the settlement agreement.

During discussion and in response to queries by Commissioner Welch and Mr. Davis regarding whether or not the current CRC is considered a party to the settlement agreement and if it is precluded from addressing certain issues, Attorney Churuti discussed the

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settlement agreement, noting that the CRC was a party to the settlement, but adjourned sine die; that the CRC was discharged from the lawsuit as part of the judgment on its face; and that a new CRC has been appointed.

During discussion and in response to comments and queries by the members, Mayor Steingold indicated that favorable input has been received from several elected officials in regard to having an elected official, accountable to the public, serve as the county executive; and that the overall consensus is that having a county mayor may improve the relationship between the cities and the county officials.

Mayor Steingold stated that the Mayors Council did not identify any specific issues for discussion by the CRC; and that the implied consensus of the cities is that they want to be left alone. He related that the incoming president of the Mayors Council will be Pinellas Park Mayor William F. Mischler; whereupon, Chairman Duncan encouraged the Council's continued participation.

Barrier Islands Governmental Council

Indian Shores Mayor and Barrier Islands Governmental Council (BIG-C) president Jim Lawrence appeared, provided a brief overview of the overall purpose of the BIG-C, and stated that the BIG-C membership requested that he speak to the CRC regarding the fate of the Pinellas Planning Council (PPC); whereupon, he related that the cities need the PPC or a very similar organization; that the PPC is the only available avenue for smaller municipalities to have their voices heard in the county planning process; that the PPC provides professional planning expertise to smaller cities without professional planners; and that the PPC assists smaller cities with difficult planning concepts and planning deficiencies and provides assistance on a weekly basis.

Mayor Lawrence pointed out that the PPC recently provided assistance with rewriting the building ordinances to be consistent with the countywide ordinances; that the PPC is the only county agency able to provide this level of support to the cities; and that maintaining that capability is extremely important to the smaller cities. In response to queries by Mayor Steingold, Mayor Lawrence indicated that the main concern is that the BIG-C maintain access to the planning expertise it currently receives from the PPC; and noted that the BIG-C will be represented on the proposed committee.

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At this time, 4:55 P.M., Mr. Bedinghaus entered the meeting.

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In response to comments and queries by Chairman Duncan and Commissioner Welch, Mayor Lawrence indicated that compensation for the services of the PPC are negotiable, noting that compensation was paid to the PPC for a yearlong project; and that the County's planning department may be able to provide the services, but may not have the time to fulfill the requirements of 24 municipalities; whereupon, Mayor Steingold provided input regarding unfunded mandates from the state.

Discussion ensued wherein Mr. Figurski related that his understanding is that the PPC was created by Special Act to allow cities to have a say in the county planning process so they are not overpowered by the County; and Attorney Churuti clarified that the PPC was created to provide cities with a forum and an opportunity for discussion and a step in the process, but that the PPC is advisory to the BCC; whereupon, Chairman Duncan invited Mayor Lawrence to attend the March 22 meeting and participate in the discussion regarding the PPC.

Mayor Lawrence agreed to provide the BIG-C's written position on the county mayor and single district issues.

COUNCIL OF NEIGHBORHOOD ASSOCIATIONS (CONA)

Maureen Stafford, Executive Director of CONA land development and historic preservation, appeared and indicated that CONA has an interest in the county mayor issue; and Chairman Duncan related that the issue is scheduled for discussion at the April 26 meeting.

ETHICS/LOBBYING POLICY

Attorney Churuti discussed and explained the state ethics and lobbying process and described the different ethics modes. She stated that Ordinance No. 97-19 defines a lobbyist as someone who accepts compensation, and lobbying as meeting privately; whereupon, she highlighted the history of amendments to the County's lobbying policy, noting that the BCC adopted a very rigorous provision in February 2010 providing for zero tolerance for communications when procurement items are in the bidding process. In response to query by Mayor Steingold, Attorney Churuti indicated that Florida Statute 112.3215 is not applicable to the BCC; that several jurisdictions adopted local lobbying provisions, including a local lobbyist registration form; and that she will advise CRC on the issue, but it is more appropriate as a code

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provision than a charter amendment; whereupon, she related that when the BCC began regulating ethics, it adopted and incorporated the provisions in the existing state laws as amended day-to-day.

Attorney Churuti discussed the honest services provision prosecutions and theories and related that Florida is one of the minority jurisdictions where a state law violation of the ethics code is not required in order to have a federal crime; that the legal argument has been made that the honest services provision is unconstitutionally vague; and that there is a state law pending proposing an honest services statute for the State of Florida, noting that there is also an amended U.S. statute.

During discussion and in response to comments and queries by Chairman Duncan and Mr. Bedinghaus, Attorney Churuti pointed out that the real teeth for ethics issues lies with the grand juries in the individual jurisdictions statewide; indicated that the CRC would not generally address the issue, but that it could; and noted that the commission on ethics complaint process can be misused. Mr. Bedinghaus related that his interest is in exploring the BCC's lobbying registration issue and what is not covered by the County's existing ordinance; whereupon, Attorney Churuti indicated that lobbying activity needs to be addressed, but that the real issue may be the definitions; and following further discussion, Commissioner Welch suggested that the definition of a lobbyist be addressed first.

Discussion ensued regarding violations and penalties and in response to query by Mr. Bedinghaus, Attorney Churuti indicated that a citizen could file a criminal complaint for violations of the ordinance; whereupon, Chairman Duncan reiterated his position that it is not a CRC issue, but that recommendations could be made to the BCC; and suggested that Attorney Churuti bring back draft modified language for the CRC to review, and no objections were noted.

Following discussion regarding enforcement, unintended consequences, and public records requests, Attorney Churuti confirmed that she will redefine the definition of lobbying, come up with additional provisions from other ordinances around the state to address the loopholes, look at potential unintended consequences, and examine the lobbyist registration process to better assist commissioners in knowing certain contacts have been made.

In response to comments by Mr. Bedinghaus regarding the need for a meaningful enforcement provision, Attorney Churuti discussed the procurement provision and related that enforcement cannot be criminalized, noting that the maximum authority the counties have is the second degree misdemeanor provision; whereupon, following brief discussion, Commissioner

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Welch recommended that the lobbyist registration and lobbying information be made public by putting the information on the County's website, and no objections were noted.

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The meeting was recessed at 5:49 P.M. and reconvened at 5:57 P.M.

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REVIEW OF SENATE BILL (SB) 216 (2009) AND LIMITATION APPLICABLE TO THE CRC

Attorney Churuti distributed a copy of Senate Bill (SB) 1928, a copy of which has been filed and made a part of the record, and indicated that the CRC, the Cities, and the County are currently governed by SB 216 prohibiting a public government from expending public funds to advertise or campaign for or against an issue, referendum, or amendment that is subject to the vote of the electors; that SB 1928 is a proposed amendment to SB 216; and that there are great concerns regarding the passage of SB 216. She referenced the Florida Senate bill analysis of fiscal impact statement in the member packet, a copy of which has been filed and made a part of the record, and indicated that it discusses some of the issues raised by the legislation; and that the most significant issue, which is not apparent from the face of the statute but is part of the elections code, is that violations of SB 216 are criminal and are enforced by the State Attorney, and discussion ensued.

Attorney Churuti related that the League of Cities has taken the conservative position that only factual determinations can be given; and in response to comments and queries by Commissioner Welch and Mr. Harvard, indicated that it is clear that County resources cannot be used to advocate for or oppose an issue and can be used for informational purposes only, and Assistant County Administrator Elithia V. Stanfield provided input.

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OPEN DISCUSSION

In response to comments by Mayor Steingold, Attorney Churuti agreed to look into the potential impact the elections bill may have on the term limits for county and city elected officials.

Mr. Neri related that some citizens have expressed concern regarding the time the CRC meetings are held; suggested that the meeting time be changed to accommodate working citizens, and recommended that one meeting a month be held at a later time to accommodate those citizens who work and cannot attend the 4:00 P.M. meetings; whereupon, following discussion, Mr. Neri moved, seconded by Commissioner Welch, that all future CRC meetings be held at 6:00 P.M., effective immediately. Upon call for the vote, the motion carried by a vote of 10 to 1, with Mr. Bedinghaus dissenting.

Thereupon, in response to Chairman Duncan's request, Ms. Stanfield agreed to update the website and the media with the new meeting time.

Chairman Duncan outlined the presentations to be made at the next CRC meeting, distributed the Office of Program Policy Analysis and Government Accountability (OPPAGA) Report and a report provided by the Supervisor of Elections, copies of which have been filed and made a part of the record, and stated that he would like to reach a decision regarding whether or not to move forward with a ballot initiative to make the Supervisor of Elections position non-partisan at the next meeting.

Mr. Davis related that his understanding of the purpose for placing an issue on the ballot was to get the public to weigh in on the issue and whether it should be adopted; and indicated that he felt the prior consolidation issue was handled inappropriately in that the decision was made not to put the issue on the ballot because there was opposition expressed.

ADJOURNMENT

There being no further business, the meeting was adjourned at 6:29 P.M.