

Clearwater, Florida, January 5, 2010

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-950, Laws of Florida) was held in the Swisher Building Conference Room, Room 210, 509 South East Avenue, Clearwater, at 5:36 P.M. on this date with the following members in attendance:

Ed Hooper, State Representative
Diane Nelson, Pinellas County Tax Collector
Kenneth T. Welch, County Commissioner
Andy Steingold, City of Safety Harbor Mayor
James Angle
Ricardo Davis
Ronnie E. Duncan
Gerald A. Figurski
William B. Harvard, Jr.
Deborah Kynes
Melissa B. Jagger
Raymond H. Neri

Late Arrival:

Paul Bedinghaus

Also Present:

James L. Bennett, County Attorney
Elithia V. Stanfield, Assistant County Administrator
Sarah M. Bleakley, Esq., Nabors Giblin & Nickerson
Other interested individuals
Arlene Smitke, Deputy Clerk

AGENDA

- I. Welcome
- II. Introduction of CRC members not in attendance at the December 7 meeting
- III. Approval of the Minutes of the December 7 meeting
- IV. Election of Chairman and Vice-Chairman
- V. Presentations by County Constitutional Officers
 - A. Ken Burke, Clerk of Courts

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- B. Deborah Clark, Supervisor of Elections
 - C. James F. Coats, Sheriff
 - D. Pam Dubov, Property Appraiser
 - E. Diane G. Nelson, Tax Collector
- VI. Consideration of Rules of the Charter Review Commission
- A. Charter Provisions
 - B. Options
 - 2004 and 2006 Pinellas
 - 2009 Alachua
 - Others
- VII. Time Certain: 5:30 PM – Consideration of Hiring Consultant and Legal Counsel
- A. Presentations by Consultant Candidates
 - 1. Kurt Spitzer and Associates
 - 2. Southern Strategy Group
 - B. Presentations by Legal Counsel Candidates
 - 1. Bryant Miller Olive, P.A.
 - 2. Cobb Cole
 - 3. Macfarlane Ferguson & McMullen, P.A.
- VIII. Website Update
- IX. Open Discussion – CRC members
- X. Set Tentative Agenda for January 25, 2010 meeting
- A. Issues from County
 - B. Issues from Judiciary
 - C. Recap of 2004 and 2006
- XI. Set Future Meeting Dates
- XII. Adjournment

WELCOME

Sarah M. Bleakley, Esquire, Nabors Giblin & Nickerson, called the meeting to order at 4:01 P.M. and welcomed those in attendance; whereupon, she announced that she would be acting as facilitator of today's meeting until the election of a Chairman and Vice-Chairman.

INTRODUCTIONS

At the request of Ms. Bleakley, CRC members Deborah Kynes, Ed Hooper, and Melissa Jagger introduced themselves, indicating that they had been unable to attend the December 7, 2009 meeting.

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ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

Deviating from the agenda, Ms. Bleakley called for nominations for the position of Chairman; whereupon, upon nomination by Commissioner Welch, seconded by Mr. Neri and carried, Ronnie E. Duncan was elected Chairman of the 2010 CRC (Vote 12-0).

Assuming the gavel, Chairman Duncan called for nominations for the position of Vice-Chairman; and upon nomination by Mr. Angle, seconded by Commissioner Welch, Ricardo Davis was elected to serve as Vice-Chairman (Vote 12-0).

MINUTES OF THE MEETING OF DECEMBER 7, 2009 – APPROVED

Chairman Duncan presented the minutes of the meeting of December 7, 2009; and upon motion by Mr. Figurski, seconded by Mayor Steingold and carried, the minutes were approved as submitted (Vote 12-0).

PRESENTATIONS BY COUNTY CONSTITUTIONAL OFFICERS

Ken Burke, Clerk of the Circuit Court

Mr. Burke thanked the members for their service to the citizens of Pinellas County; whereupon, he indicated that he had met with the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser; and that the majority of his comments represent the shared concerns of the Constitutional Officers pertaining to the Charter Review process. Noting that Supervisor of Elections Deborah Clark was unable to attend today's meeting due to a scheduling conflict, he extended her regards and apology to the members.

Mr. Burke related that the over-riding concern expressed by the Constitutional Officers is that, on any issue involving any of their responsibilities, they be given a fair chance to be heard with proper warning and opportunity to give testimony before the Commission. Other items of concern include the following:

- Do no harm; do not fix what is not broken. While there is always room for improvement, the system with the Constitutional Officers works well in Pinellas County.

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- The independence of the Constitutional Officers ensures a checks-and-balance system, and they feel strongly that it should not be compromised. The Clerk's Board Records Department, for example, serves the CRC and the Board of County Commissioners (BCC) by recording and retaining the records of their proceedings.
- The Constitutional Officers strongly believe that the citizens have a right to elect their officials and hold them accountable; they do not believe these should be appointed positions.
- The Constitutional Officers have a strong commitment to citizen service. The Clerk makes himself available to the citizens and provides comment cards, as does the Tax Collector, and follows up on any ratings of less than Excellent or Good.
- The Constitutional Officers do not believe the citizens' rights should be restricted in any way.

Mr. Burke related that the Constitutional Officers are proposing a buddy system to respond to any questions or concerns of the CRC members, as follows:

Supervisor of Elections Deborah Clark: Duncan and Welch

Sheriff Coats: Davis, Hooper, and Neri

Property Appraiser Pam Dubov: Angle, Kynes, and Figurski

Clerk Ken Burke: Bedinghaus, Steingold, Harvard, and Jagger

James F. Coats, Sheriff

Sheriff Coats thanked the members for their service and for the opportunity to provide input; whereupon, he noted his concurrence with the comments of the Clerk and invited the members to contact him regarding any issues associated with his area of responsibility.

Pam Dubov, Property Appraiser

Ms. Dubov greeted the members and thanked them for the opportunity to speak; whereupon, she provided several examples illustrating the importance of having an independent,

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elected Property Appraiser, as opposed to an appointed official, and invited the members to call her if they have any questions related to the Property Appraiser.

Diane G. Nelson, Tax Collector

Stressing the importance of the independence of the Tax Collector, Ms. Nelson related how she was able to act quickly to assume duties of the Florida Department of Highway Safety and Motor Vehicles and serve the citizens by converting state driver license offices to full-service Tax Collector's offices. She noted that the Tax Collector differs from other Constitutional Officers in that she is a "fee officer" whose unused revenue is turned over to the County and other taxing authorities; that her budget is approved by the Florida Department of Revenue; that she has worked with the County to achieve budget reductions; and that the independence of the office allows her to provide a high level of efficiency and customer service.

Mr. Figurski acknowledged the Constitutional Officers' concerns regarding the independence of their elected offices; whereupon, he requested that they notify the commissioners of any issues they are aware of that ought to be considered by the CRC, based upon their knowledge of the entire county and whether they are related to their individual offices or not; and Chairman Duncan concurred. In response, Ms. Nelson described how the Constitutional Officers are working together and with County staff in areas unrelated to the Charter to provide greater efficiency and customer service. Responding to query by Representative Hooper, Ms. Nelson discussed her experiences associated with implementation of the federal Real ID Act licensing provisions.

Indicating her agreement that the Constitutional Officers should retain their independent elected status, Ms. Kynes stated that she has spoken with members of the community and has long thought that at least the Supervisor of Elections should be a nonpartisan office. Commissioner Welch concurred, noting that he has served on the Canvassing Board; that he has discussed the matter with Ms. Clark, who proposed the matter to a prior CRC; and that the citizens should have an opportunity to decide.

Thereupon, Chairman Duncan indicated that representatives of the County Administration and the Judiciary will be given an opportunity to provide input at the January 25 CRC meeting, after which the members will begin to compile a list of initiatives or discussion items they wish to explore.

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ADOPTION OF RULES OF THE CHARTER REVIEW COMMISSION

Ms. Bleakley reviewed CRC rules as specified in the Pinellas County Charter and additional rules adopted by the 2004 and 2006 Review Commissions, along with the rules adopted by the 2009/2010 Alachua County CRC, as shown on pages 24 and 25 of the agenda packet.

Mayor Steingold indicated that, for purposes of transparency, it would be desirable to hold one or more public meetings to discuss and possibly tweak the recommendations of the Commission prior to their final determination. Discussion ensued wherein Mr. Angle noted that the last CRC held three such meetings at north, central, and south county locations; and Mr. Davis cited the challenges of the compressed time frame and the need to allow time for consideration of public comments. Mr. Figurski related his experience while serving on the City of Clearwater CRC, noting that few citizens attended the public hearings, generally those with interest in a specific issue, and that citizen input could be solicited during regular meetings of the Commission.

Noting that the CRC has authority to put items directly on the ballot without BCC approval, Mr. Figurski recommended that ballot items require approval by a majority-plus-one of the entire membership.

Mr. Neri expressed concern with the process, agreeing that citizens in attendance at the public meetings tend to have a specific ax to grind, and suggesting that a survey or other mechanism be utilized to provide a broad sampling of issues that are important to the citizens of the county; whereupon, Ms. Stanfield related that a random telephone survey would cost approximately \$20,000 and add two months to the review process; that a combination mail and telephone survey could be conducted for under \$10,000; that focus groups could be conducted fairly inexpensively; and that the main issue would be the time constraints.

Discussion ensued; whereupon, Mr. Hooper moved, seconded by Mr. Davis, that the CRC adopt the rules shown on page 24 of the agenda package, including those specified in the Charter and the additional rules adopted by the 2004 and 2006 CRCs. Following further discussion and clarification, the maker and seconder amended the motion to specify that ballot items must be approved by a majority-plus-one vote of the entire membership; and that at least one public hearing will be held prior to final decision on Charter amendments to be placed on the ballot. Chairman Duncan noted for the record that all meetings of the CRC are public meetings; and that members of the public are invited to provide input throughout the process on matters as they see fit relating to the Charter. Responding to queries by Ms. Nelson, Ms. Stanfield

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indicated that a press release to be issued tomorrow will include information regarding upcoming meetings; and that notices could be sent to the media each month announcing the meetings.

Thereupon, upon Chairman Duncan's call for the vote, the motion carried unanimously (Vote 12-0).

WEBSITE UPDATE

At this time, 4:54 P.M., noting that the consultant candidate presentations are scheduled for a time certain of 5:30 P.M., Chairman Duncan directed that the Commission proceed with the remaining agenda items, and no objections were noted.

Ms. Stanfield related that the CRC website is currently up and running and can be accessed via a link from the County's home page (www.pinellascounty.org); whereupon, she distributed a print-out of the online Charter Review feedback form, a copy of which has been filed and made a part of the record, and noted that the citizens can provide input anonymously, if they so choose. Discussion ensued wherein Ms. Stanfield indicated that the form can be programmed to generate an auto-reply message to the sender; that citizen comments will be compiled and presented to the members for their review and consideration; and that the County will prepare a press release providing the website address and other CRC information.

OPEN DISCUSSION

Responding to query by Commissioner Welch, Community Outreach Coordinator Len Ciecieznski indicated that the Communications Department could produce a 30-second video to be broadcast as a public service announcement on the County and municipal television stations; whereupon, Chairman Duncan proposed that CRC information be included in utility bills; and Ms. Nelson indicated that she may be able to distribute information along with automobile registration mailings processed by the Tax Collector's Office.

In response to Chairman Duncan's call for additional discussion pertaining to community outreach, Ms. Stanfield referred to a suggestion by Mr. Neri, indicating that, although time constraints may prohibit the current CRC from conducting an official community poll related to Charter issues, its report to the citizens could contain a recommendation that the BCC commission a study to be conducted one year prior to the convening of subsequent CRCs.

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Ms. Bleakley inquired as to the members' intent to conduct polling or focus groups during the current review process, and discussion ensued. Ms. Stanfield responded to queries by Commissioner Welch, indicating that the Charter specifies that the BCC shall fund the expenses of the CRC; and that the total budget of up to \$100,000 is inclusive of consultant fees and expenses. Mr. Angle suggested that the Commission may wish to pursue a Charter amendment to extend the review process from the current six-month time period; and Attorney Bennett provided input regarding the rules and limitations governing the drafting of ballot language; whereupon, Chairman Duncan noted a consensus that the current CRC not proceed to conduct polling or focus groups, but recommend that they be included as part of future reviews, as discussed.

FUTURE MEETING DATES

Following discussion, it was the consensus of the members to adopt a tentative schedule to meet at 4:00 P.M. on the second Tuesday and last Monday of each month at the Tax Collector's Mid-County Office located at 13025 Starkey Road, Largo. Referring to publication requirements, Ms. Stanfield suggested that meetings be advertised for January 25 and February 9, 2010; and that a meeting calendar be prepared for revision and/or adoption at the next meeting, and Chairman Duncan concurred; whereupon, he requested that the calendar include one public hearing near the end of the review process; and noted that additional hearings could be added at a later date.

SELECTION OF CRC CONSULTANT AND LEGAL COUNSEL

Chairman Duncan declared a conflict of interest involving one of the candidates for CRC consultant; and indicated that he would not participate in the discussion or the vote.

Ms. Stanfield indicated that two responses were received to the Request for Proposal (RFP) to provide consultant services; that four responses to the RFP for legal services were received; and that she had served on the evaluation committee along with representatives of the Office of Management and Budget, the County Attorney's Office, and the Planning and Utilities Departments; whereupon, she distributed the evaluation criteria tabulation sheet for the legal services candidates, a copy of which has been filed and made a part of the record.

Ms. Stanfield informed the members that they are an independent body, not subject to the Pinellas County Purchasing Ordinance; that they may select any of the respondents

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or choose to reject them all and select other providers as they desire; that each candidate will be allowed a five-minute presentation, followed by a question and answer period; and that the candidates will be sequestered during the other candidate interviews.

Ms. Stanfield and Director of Purchasing Joseph Lauro responded to queries by the members pertaining to provisions of the RFPs; and Attorney Bennett provided input, indicating that the candidates have agreed to be sequestered, but could not be required to do so under public meeting law.

CONSULTANT CANDIDATE PRESENTATIONS AND INTERVIEWS

Kurt Spitzer and Associates, Inc.

Mr. Spitzer provided a brief overview of his background and related experience, noting that he has been involved in nearly 20 charters and reviews, including the last three in Pinellas County. He related that the Pinellas County Charter is the most limited home rule charter in the state of Florida and that the six-month review period, set forth in the Charter, is the shortest time frame for any Florida CRC; whereupon, he proposed that the commissioners could take a simple approach, utilizing the work product generated by the 2004 and 2006 CRCs as part of the basis for their efforts, or a more complicated approach involving one-on-one interviews with the members and possible electronic polling of the group, which would require additional consultant time.

Following his presentation, Mr. Spitzer responded to various queries by the members and provided clarification regarding his proposed fees and availability.

Southern Strategy Group

Amy Maguire distributed a PowerPoint presentation, a copy of which has been filed and made a part of the record, and provided a brief overview of her qualifications and proposal focusing on the areas of experience, education, economics, environment, and efficiency. She indicated that her project team would include members of the McFarlane Ferguson & McMullen law firm; that all team members are locally based; that she has 20 years of research and lobbying experience; and that she plans to utilize a variety of multimedia outreach tools to engage the community.

Responding to comments and queries by the members, Ms. Maguire expounded on her strategy and current lobbying efforts; whereupon, Commissioner Welch raised concerns

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pertaining to Southern Strategy Group's lobbying efforts on behalf of offshore oil drilling, to which Pinellas County and numerous Bay-area municipalities and organizations are opposed. In response, she explained that the firm's Tallahassee and Tampa Bay offices represent two separate companies with separate clients; and that she no longer represents oil drilling interests on a local level.

DISCUSSION AND SELECTION OF CONSULTANT

Chairman Duncan indicated that the candidates' presence would be allowed during the members' discussion and selection process; whereupon, responding to queries by the members, Ms. Stanfield related that the CRC has a budget of \$100,000 to cover both the consultant and legal counsel, as well as travel and other expenses, and Mr. Lauro noted that, while Mr. Spitzer's written proposal did not include travel expenses, he had indicated during his presentation that travel would be included as part of the proposed fee.

Chairman Duncan reiterated for the record that he had declared a conflict and would not take part in the discussion or vote on the CRC consultant.

Mayor Steingold opened the discussion by expressing his opinion that both candidates are well-run, top-notch organizations; whereupon, citing the complexity of Pinellas County and the issues to be addressed, and Mr. Spitzer's charter review experience throughout the state, he nominated Kurt Spitzer and Associates, Inc. to serve as the CRC consultant; and Ms. Kynes seconded the motion.

Referring to his conflict declaration, as previously noted, Chairman Duncan specified that he has a contractual relationship with Southern Strategy Group; whereupon, he submitted a Memorandum of Voting Conflict form, which has been filed and made a part of the record; and Vice-Chairman Davis assumed the gavel.

Commissioner Welch pointed out that Mr. Spitzer's proposal had included two alternative strategies, and inquired whether the preferred alternative need be specified in the motion. Responding, Vice-Chairman Davis indicated that the CRC has yet to define the scope of the review, which will drive the work program to be undertaken by Mr. Spitzer.

Following discussion and upon call for the vote, the motion carried by a vote of 7 to 4, with members Nelson, Angle, Jagger, and Hooper casting the dissenting votes and Chairman Duncan abstaining.

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At the request of Ms. Stanfield, Mr. Figurski moved, seconded by Representative Hooper, that staff be authorized to prepare a contract for final approval; whereupon, Ms. Nelson suggested that the contract be contingent upon the availability of Mr. Spitzer on the days of the meetings, and the maker and seconder concurred. Upon call for the vote, the motion carried unanimously.

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The meeting was recessed at 6:28 P.M. and reconvened at 6:35 P.M.

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LEGAL COUNSEL CANDIDATE PRESENTATIONS AND INTERVIEWS

Bryant Miller Olive P.A.

Susan Churuti greeted the commissioners and introduced team members Michael Davis and Kareem Spratling; whereupon, she provided a brief overview of the firm's qualifications, noting her experience as Pinellas County Attorney and that of Mr. Davis as City Attorney for St. Petersburg and General Counsel for the City of St. Pete Beach. She indicated that both she and Mr. Davis live locally and will not charge for travel time or expenses; that the firm uses a team approach, with various legal experts available via videoconference; and that the firm has statewide charter experience and extensive historical knowledge of specific Pinellas County issues, including those addressed by previous Pinellas CRCs.

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Mr. Bedinghaus entered the meeting at 6:42 P.M.

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Responding to concerns raised by the members pertaining to a possible or perceived conflict of interest with the City of St. Pete Beach, Ms. Churuti indicated that the firm would seek a waiver of conflict from both clients, and failing to receive it, would make a decision to withdraw from one representation or the other; whereupon, in response to a suggestion by Mr. Figurski, Mr. Davis indicated that a *Chinese Box* situation could be employed,

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wherein he would not be involved in County matters and Ms. Churuti would not be involved in matters pertaining to St. Pete Beach.

Cobb Cole

C. Allen Watts introduced his partners Jon Kaney and Mark Watts, and Susan Spurgeon of the Pennington, Moore, Wilkinson, Bell & Dunbar law firm and indicated that he has worked with CRCs 10 or 12 times for a number of counties throughout the state of Florida; whereupon, referring to a PowerPoint handout, a copy of which has been filed and made a part of the record, he reviewed significant issues that were addressed including the unification of rules and regulations, consolidation of services, and collection of tolls for several beach communities in Volusia County.

In response to query by Representative Hooper, Ms. Spurgeon confirmed that her firm serves as Pinellas County's registered lobbyist; and indicated that she does not foresee any conflict arising therefrom; however, should one arise, it would be dealt with in accordance with the state Ethics Law; whereupon, Mr. Watts related that there are other legal firms which could be retained in lieu of the Pennington firm.

Responding to queries by the members, Mr. Watts indicated that he and his son operate an office in Deland, Florida; that he does not bill for travel time; that travel expenses are billed at rates allowed for state employees; that the firm does not currently represent any governmental clients in Pinellas County; and that he believes opportunities exist for cooperation among the constituent municipalities; whereupon, he described a case involving the negotiation of an interlocal agreement among all the municipalities in Palm Beach County.

Macfarlane Ferguson & McMullen, P.A.

Joshua Magidson introduced team members James Martin and Brian Aungst, Jr. of the firm's Clearwater office and Carter McCain of Tampa, emphasized the firm's experience in representing the interests of the businesses and citizens of Pinellas County, and noted that they have no governmental clients. He indicated that he has served as a member of the City of Clearwater CRC and on other local commissions and task forces; and that, acting on behalf of their clients, members of the firm interact with Pinellas County governmental agencies and departments on a daily basis.

Mr. Aungst pointed out that the CRC was represented by the County Attorney's Office during recent Charter reviews, not by any outside firm; whereupon, he indicated that he is

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familiar with the unique nature of the Pinellas County Charter; and that he has read every case involving the Charter Review process in Florida, every case involving the Pinellas County Charter, and the entire report by the most recent Pinellas County CRC. Providing additional input, Mr. McCain summarized the role and responsibilities of the legal counsel pertaining to the mission of the CRC.

Discussion ensued, and responding to queries by the CRC, the team members provided additional information regarding the firm's relevant experience and stated that the firm could assist the CRC in taking a fresh look at the Charter considering the perspective and interests of the constituents while providing the necessary legal expertise and guidance in a responsive, proactive manner.

DISCUSSION AND SELECTION OF LEGAL COUNSEL

Chairman Duncan stated for the record that four proposals were received and evaluated by the committee, as shown on the evaluation criteria tabulation sheet, and reminded the members of their December 7 decision to interview only the top three firms.

At the request of Mr. Figurski, County Attorney Bennett outlined the role of the CRC attorney, as follows: to draft ballot language; to ensure compliance with all procedural, public record, and Sunshine Law requirements; to provide the legal tools to enable the ideas of the Commission and to constrain them, where necessary; and to provide the advice that the members ask for as well as that which they need. Ms. Bleakley concurred, adding that the attorney should advise the members what is lawful and what is not; but also, if there is an idea the commissioners wish to pursue, to think creatively to determine whether there is a way to accomplish their objective and to advise them of barriers which will prevent them from doing so.

Chairman Duncan opened the floor for discussion, and following input by all members, Mr. Figurski moved, seconded by Commissioner Welch, that the firm of Bryant Miller Olive be selected to serve as legal counsel to the CRC.

During continued discussion and responding to query by Ms. Nelson, Chairman Duncan indicated that additional comments or rebuttal by the candidates would not be appropriate when there is a motion on the floor; whereupon, Mr. Figurski restated the motion, including an amendment that staff be authorized to prepare a contract for final approval. Upon call for the vote, the motion carried 9 to 4, with members Kynes, Hooper, Bedinghaus, and Neri casting the dissenting votes.

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Thereupon, Chairman Duncan thanked the candidates for their participation, and noting that the consultant and legal contracts may or may not be executed before the January 25 meeting, thanked Ms. Bleakley for her efforts and efficiency in getting the CRC started and to this point in the process.

TENTATIVE AGENDA FOR JANUARY 25, 2010 MEETING

Chairman Duncan referred to today's agenda and reviewed the items proposed for consideration at the January 25 meeting, noting that representatives of the County and the Judiciary will present their comments and issues. He indicated that the CRC will likely begin receiving public input by that time, and should begin to compile a list of issues it wishes to tackle, including Ms. Kynes suggestion for a non-partisan Supervisor of Elections; and Mr. Davis restated items discussed at the last meeting, including consolidation of the Pinellas Planning Council and Metropolitan Planning Organization, annexation of unincorporated areas by the cities, extension of the Charter review period, and consolidation of fire services, with consideration of the State Office of Program Policy Analysis and Government Accountability (OPPAGA) EMS/fire study report, to be released soon

Ms. Kynes suggested that Mr. Spitzer consider the use of Facebook and Twitter as community outreach tools, as suggested by one of the candidates, and Chairman Duncan concurred.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:03 P.M.