

**MINUTES  
CLAY COUNTY  
CHARTER REVIEW COMMISSION  
March 2, 2006**

The Clay County Charter Review Commission (CRC) met on Thursday, March 2, 2006, 7:00 p.m., at the Tax Collector's Meeting Room, first floor of the Administration Building, 477 Houston Street, Green Cove Springs, Florida, 32043. Those in attendance are listed on the attached sign-in sheet.

Chairman Travis Cummings led in the Pledge of Allegiance.

Students from St. Johns Country Day School's US Government Class were acknowledged.

**Amendment of the February 16, 2006 minutes as follows:**

Jane Padgett, page 16, paragraph 11, with the followings changes:

~~Ms. Padgett:~~ Mr. Boyer: I go to the ~~taet~~ TAC, BCC, and the CRC meetings. ~~and the transportation meetings.~~

Jane Padgett, page 26

We have 50 percent more based on the rules that we have now. ~~to get as many signatures as we did a year and half ago.~~

Wayne Padgett:

Page 13, paragraph three:

In some instances they did go to at-large during the historical evolutions. You will ~~don't~~ have special interest no matter what kind of system you have.

**Gordon Jespersion made a motion to approve the February 16, 2006 minutes as amended. George Espada seconded the motion, which carried 14-0. Rob Bradley will join the meeting later.**

**Gordon Jespersion made a motion to accept the letter from Chairman Travis Cummings to Chairman Commissioner Glenn R. Lassiter and County Manager Fritz Behring informing them that the CRC was retaining Attorney C. Allen Watts to assist and advice the CRC for the duration of their session and a letter from C. Allen Watts to Chairman Travis Cummings acknowledging his acceptance to serve. Seconded by Jim Gann, which carried 14-0.**

Chairman Travis Cummings explained that invoices for Mr. Watts' services will be approved by a majority vote of the CRC and Recording Secretary Ann Mitchell will submit them for payment by the Board. For the record, Clay County's Home Rule Charter states the following under Section 4.2: B (3): "Expenses of the Charter Review Commission shall be verified by a majority vote of the Charter Review Commission and forwarded to the Board of County Commissioners for payment from the general fund of the County. The Charter Review Commission may employ

a staff, consult and retain experts, and purchase, lease, or otherwise provide for such supplies, materials, equipment and facilities as it deems necessary to accomplish its assigned task.”

Chairman Cummings: Informed the group that Mr. Watts will not be charging for travel time because he doesn't feel that there will be over-night lodging. All of his out-of-pocket expenses will be processed based on the state purchasing policies established by the Florida Statutes. He thanked Mr. Watt's for his fairness.

Allen Watts was welcomed and introduced.

**Agenda item #3: Discussion of charter amendment language related to the non-interference clause.**

Chairman Cummings: Previously, by a majority vote, the CRC recommended a charter amendment to consider a stronger non-interference clause to propose at the public hearings. Prior to Mr. Watts's engagement, Mr. Scruby drafted a non-interference amendment and the text is limited to 75 words. We have had lengthy discussions regarding this clause and the CRC needs to finalize the language. Mr. Watts is prepared to discuss this with us. Mr. Garrison has done a great job researching other charter counties to provide the CRC with valuable statistics regarding many issues.

Bill Garrison: It is my opinion that there is some very strong language about non-interference particularly with the phrase, “expressly prohibited.” There are 19 charter counties in Florida and five of the 19 have that phrase in their non-interference clauses. I think that Clay County's Charter should also have that phrase included in theirs. In Seminole County's Charter, the third sentence down, it is almost as if at some point someone tried to prevent the county commissioners in Seminole County from having any contact whatsoever with employees. Apparently there was a need to have that sentence included in their charter which says, “Neither the county manager, the county attorney, nor any other county officer or employee shall interfere with rights of commission members hereunder”. It is almost the opposite of what we have been discussing and I am anxious to hear Mr. Watts's opinion, as well as others. Now I have a better understanding of what Mr. Scruby's hesitance was to use that phrase “expressly prohibited”; he was looking out for his clients. We needed to have some independence there. I still do believe that we need to strengthen the clause in some manner. I attended the planning session of the commissioners yesterday and part of the problem for the commissioners is the citizenary that they are accountable to refer their complaints to them. Now, what we are trying to say is that you are expressly prohibited from interfering with the execution of the county if you will; yet, the citizenry, us, are going to call and complain that our ditch did not get cleaned out, our road did not get paved, etc. My point is that we need to be careful to not tie their hands too much.

Roy Lyons: The way it is now county commissioners may communicate with employees and I think that needs to be changed. We need change and I like the chain-of-command type thing, and I see nothing wrong with the Brevard County's non-interference clause,” Except for the purpose of inquiry or information.” It does not prevent them from speaking and gathering the information from their constituents who call them, but it does say, “Except for the purpose of inquiry and

information”, instead of directing or anything else that may be going on as it is now. With the new county manager and that position, what we are trying to do is to strengthen that position.

Gordon Jespersen: Following up with what Mr. Scruby stated at our last meeting; why can't they get inquiry and information through the county manager directly and not through employees or department heads? It may take a little longer and the county manager will have to find out the answers and report back to the commissioners. I see that there is some danger in it, but if the county commissioner calls up an employee or supervisor and inquires about something, that could be taken as an instruction to do something, depending on how the commissioner phrases it.

Mary Cooperman: I believe that the county manager has made it clear that all requests should come to him so he will know what is going on. I am from the old school and I have always called my commissioner and issues have always been handled. The county manager does not want that to happen now, he wants the county commissioners to relay the information to him; whatever requests they receive. The trouble with the Brevard County clause, “Such action shall be malfeasance within the meaning of Article, IV, Section 7(a) of the State Constitution” is that it is somebody's interpretation if they consider whatever the commissioner did to be malfeasance; so I don't like that in the non-interference clause.

Allen Watts: If you will notice that it is in the Brevard, Polk, and Volusia County Charters. Malfeasance is one of the ways in which the governor can remove the commissioner, or the people may recall the commissioner of charter counties. The purpose of such an action shall be considered malfeasance is to make it clear that if you do that, it can subject you to removal or a petition of recall if it is successful through a referendum. Then you are recalled from office and somebody else is elected to fill the seat. That was the reason for that specific reference to the term “malfeasance” that it would bring it within the governors constitutional powers for removal under the constitution and the right of the people to recall.

Mary Cooperman: Isn't that a little bit harsh?

Roy Lyons: That is not what it says Mary. It says for the purpose of inquiry and information, they can call for information. In ours they can communicate, etc. This is except for a better understanding of it.

Bill Gann: Did we not already agree that we needed stronger language with the non-interference clause and the draft we received is what we were going to use?

Chairman Cummings: When we received the draft for the non-interference clause from Mr. Scruby we were still discussing some of the issues of the text.

Ralph Puckhaber: Mr. Scruby had two issues: 1) there was a concern about the language that we suggested and I am hoping that Mr. Watts can write some strong language for that. 2) Mr. Scruby indicated that he had trouble getting the ballot summary written within the 75 word limit. I want the malfeasance language in the non-interference clause and the hammer hanging there because it will still take someone to prove that something is going on; but it does put that voice in the back of theirs heads, let me make sure that I am asking a question. I could call a guy up and say I

understand that the ditch, etc., needs cleaning. I will call back in two days to see if it still needs cleaning, that is still requesting information and there is no doubt that is a direction.

Bill Garrison: I agree. I have argued for the phrase “expressly prohibited”, and reading the one we have in Clay County, the last sentence,” Nothing contained herein shall prevent a County Commissioner from referring a citizen complaint or request to the County Manager or County Attorney.” I think that something like that sentence should remain in there. We don’t want you directing, you expressly prohibited from directing, but nothing contained here shall prevent you from doing your duty as an elected county official like following up on complaints through the county manager.

Chairman Cummings: We have spent a lot of time discussing this issue and it is time to move forward.

Allan Watts: Essentially, the non-interference clause’s purpose as far as the commissioners are concerned, is you can ask, but you can’t tell. You can ask what the progress of a project is and you can ask it directly of an employee. You can not directly or by implication tell them what to do because it has to come through the chain-of-command. I had the benefit of County Attorney Mark Scruby’s thinking on this and he was kind enough to blueprint me on it. He was concerned about the wording in the second sentence of the draft for the non-interference clause, where it says “Except for the purposes for inquiry or information, a County Commissioner shall not give direction to or interfere with any employee, officer, or agent under the direct or indirect supervision of the County Manager”. If you diagram that sentence, you have an exception that contradicts the “shall not”; so I agree with his suggestion; is to strike the words except for the purposes of inquiry or information, because that is at the end. That is where the exception comes in. It says we don’t want this construed to prevent a commissioner from being an ombudsman; answering a phone call from a constituent, and asking public works a question to relay back to the constituent, it is better to go through the chain-of-command certainly if there is any specific direction given. In your county you have three officers that work as managers; the county manager, the county attorney and the commission auditor. Mr. Scruby suggested, and I concur, making that non-interference clause refer to the employees of all three of those leaders at the same time, and at the end, adding the phrase commission auditor just to clean it up. That was confusing I know. I will tell you that there is some benefit in working for two different charter commissions at the same time, sometimes one of the groups may have a bright idea, one that you can share with the other. One of the questions came up in Columbia County recently about what if the county manager is stone-walling us and we can’t find out what is really going on, and there is something going on. The solution that we came up with to recommend to that CRC was, that is not an excuse for going around the county manager. You do need a way to find out from time to time and there is an implicit power of any legislative body to do an investigation. Congress does it all of the time; they will subpoena witnesses, and they will examine them from questions by committee members. There is a legislative power of investigation, and it is probably there anyway but you might want to add to the powers of the commission where that appears, not in your non-interference clause, but where the powers are set out. You might want to give express recognition to that power of collectively investigating; not an individual commissioner going out on their own, but when they all come together and they have the power of the Board behind

them, then they would have the right to ask the manager, or the employees specific questions that lead to the adoption of better public policy.

Roy Lyons: What are you recommending for the non-interference clause?

Chairman Cummings: Responded and read for the record the edited version of the non-interference clause as follows: "I. Non-Interference. County Commissioners may communicate with employees, officers, or agents under the direct or indirect supervision of the County Manager or County Attorney or the Commission Auditor for the purpose of inquiry or information. Except for the purposes of inquiry or information, a County Commissioner shall not give directions to or interfere with any employee, officer, or agent under the direct or indirect supervision of the County Manager, the County Attorney, or the Commission Auditor. Such action shall be malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution. Nothing contained herein shall prevent a County Commissioner from referring a citizen complaint or request to the County Manager, the County Attorney, or the Commission Auditor". This is basically somewhat of what we intended with the exception of striking out the sentence that provided some duplication that said except for the purposes of inquiry or information.

Bill Garrison: They have added the malfeasance aspect which gives you the hammer you are looking for. I know this may sound extremely silly, but why did you put the second sentence first? My whole point is that Clay County's non-interference clause is so permissive. Why don't you put the second sentence first? Let the tone of the non-interference clause be restrictive.

Allen Watts: It legally means the same thing, but it gives the punch in the beginning.

Rob Bradley arrived.

**After discussion, Jim Gann made a motion to accept the non-interference language as follows: A County Commissioner shall not give directions to or interfere with any employee, officer, or agent under the direct or indirect supervision of the County Manager, the County Attorney, or the Commission Auditor. Such action shall be malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution. County Commissioners may communicate with employees, officers, or agents under the direct or indirect supervision of the County Manager or County Attorney for the purpose of inquiry or information. Nothing contained herein shall prevent a County Commissioner from referring a citizen complaint or request to the County Manager, the County Attorney, or the Commission Auditor. Seconded by Roy Lyons, which carried 14-0.**

Rob Bradley arrived after the above motion.

Gordon Jespersen made a motion to adopt a Sub-Section 2.2 authorizing the commission to conduct investigations when needed.

Allen Watts: An implicit power of legislative bodies is a power of investigation when they are acting collectively, not individually. Columbia County had taken this subject up and will be

considering it Tuesday night. This is the clause we have drafted for Columbia County's situation as follows: "The Commission may make investigations of county affairs, inquire into the conduct, accounts, records, and transactions of any department or offices of the county and for these purposes require reports from all county officers and employees, subpoena witnesses, administer oaths, and require the production of records".

Rob Bradley: What is the purpose of this clause and why was it brought to the CRC's attention?

Allen Watts: The question came up in Columbia County that if they made the non-interference clause too strong, then the commissioners are really powerless to investigate a manager who may be stonewalling them by saying don't talk to my employees, etc. We may really need to get to the bottom of some of abuse at some point and we need information to know if there is an abuse. This power is implicit anyway in a legislative body. What Columbia County is proposing to do is to make it explicit in the list of powers of the Board of County Commissioners.

Rob Bradley: Would this be a separate provision of the charter than from the changes of the non-interference clause?

Allen Watts: It would be in addition to the powers of the commission.

Ralph Puckhaber: Is the text provided proficient wording? As you pointed out earlier, it is the body as a whole acting in an investigation. Is that sufficient enough to ensure that it is interpreted that they have the right to do this individually?

Allen Watts: Commissioners acting individually have zero power. It is only when they get together as a body in the public that they may act collectively as the legislative body; the full commission in session.

Chairman Cummings: Does Columbia County have a commission auditor?

Allen Watts: They do not yet, although it is something that has been discussed.

Chairman Cummings: I assume that our current Board has instructed the Commission Auditor to do some of this.

Rob Bradley: I would agree with Mr. Watts' point that at the end of the day the five county commissioners are the ones who are ultimately responsible for the county government. It needs to be clear that the charter does not limit their abilities to do what they need to do to investigate. The Commission Auditor has his/her role; however, the auditor may not always be someone who is effective, or has the trust of the commissioners.

Roy Lyons: So what we are doing here is strengthening the position of the county manager, but also holding the county manager with the responsibility of the entire commission.

Gordon Jespersen: In essence, we are not giving them anything that they don't already have, we are making it clear.

Allan Watts: One thing that I do want to make clear is the language that is being proposed for Columbia County. Looking at the third line which says, "All county officers", that includes constitutional officers. Really, it is a policy judgment on your part. Sometimes the county officers are thought to be sacrosanct, but the county commissioners have to do the budget, etc., it was thought by the Columbia County Commission that they wanted that power to extend to the county officers. It doesn't retract in any way from the statutory duties and powers of a county officer; it simply adds one more duty.

Rob Bradley: It would be interesting that the county commission could in effect audit the constitutional officers because it was my understanding that was something not permitted. I think it should be by the way; it was just my understanding that there was some sort of legal barrier of that.

Ralph Puckhaber: Mr. Watts, are you saying that the constitutional officers who are not really part of this charter could be covered under this clause?

Allen Watts: It can be.

Rob Bradley: They are part of the charter.

Allan Watts: They are part of the county. The way that the government is structured in the constitution the five officers are named and it provided that they will be elected and what their terms will be, but there aren't any duties except for the Clerk of the Court assigned by the Constitution. All of the duties are assigned by statutes. A charter county has the same power as the legislature has to adopt local statutes so long as they are not inconsistent with general laws. So, you can't obstruct a county officer from the performance of their duties under the legislature, but you may add a duty and you would have to fund it if it cost money. Being responsive to investigation is not something that ought to cost money.

Mary Cooperman: Our county auditor has not audited the constitutional officers because it seems as though they have been untouchable. Our current auditor wants to know why he can't. There was an instance in Duval County where the auditor and the tax collector had a law suit going on. The tax collector would not let the auditor in his office. People hold the constitutional officers differently and they are not. I think that I am the only one who believes that. The constitution says that there will be constitutional officers, but that is it.

Jim Gann: I think that we are going to rectify that with agenda item number nine.

Allan Watts: I will tell you that this is a political question. I will tell you what you can and can't do legally; what you want to do politically is your judgment. It may or may not be a controversial issue if you propose it. You can simply strike all county officers if you wanted to adopt something like this; you may not want to adopt something like this. I don't mean to be presumptuous about it, I simply brought it to your attention as sort of a check and balance that goes with the non-interference clauses. If you do adopt it, you should know that there is a policy choice to be made with whether you include the county officers or not, you don't have to. In my legal opinion, you may.

Rob Bradley: Mr. Watts, in your legal opinion could we make a part of our charter a clause which allows the Board of County Commissioners to audit the functions of the constitutional officers?

Allen Watts: Make investigations, inquire into the conduct, accounts, records, and transactions of any department or office of the county, and for these purposes require reports fro all county officers and employees, subpoena witnesses, administer oaths, and require the production of records.

Rob Bradley: Would it be prudent to clarify even further the term “county officers” so it couldn’t be argued. There has been sort of a history of that being sacrosanct, in that you can’t go there. I don’t want any confusion when we have to go to the courthouse to explain to the judge that the intent of this provision was not just for the departments of the county, but for all of the constitutional officers as well.

Allen Watts: There is a heading in Article VIII, Section 1(d) of the Florida Constitution which is headed County Officers and specifically lists the five county officers.

Ralph Puckhaber: I like the idea that the constitutional officers would have a little bit of oversight and it may be the first step of where you want to go eventually. I also agree with Rob that it needs to be clear in our motion and in our minutes, that if it is ever challenged the intent would be there without specifically putting it in writing.

Chairman Cummings: We don’t have to receive direction at this time. I personally like it and I agree with Mr. Bradley. I don’t think that our job is only to monitor the checks and balances for the Board. We have a manager now that we feel very good about and hope he does well. From what I can see now, I don’t think this would ever be necessary for the current county manager but that does not mean that there will not be a future manager that we want to have the ability to conduct investigations and inquiries on.

Bill Garrison: Why don’t we table this clause for the time being and make it part of the future agenda and get back to the regular agenda.

**Gordon Jespersen withdrew his motion to adopt a Sub-Section 2.2 authorizing the commission to conduct investigations when needed until the next meeting for discussion. Seconded by George Espada, which carried 15-0.**

### **8:00 Public Comments Time Certain**

#### **Fred Birkholtz:**

I am commenting on agenda items three, four and five. I feel very strongly about agenda item number three (discussion of charter amendment language related to the non-interference clause), I know that you have passed a motion, but I suggest that you consider prohibiting any communication between the commissioners and any county employee other than the three officers; the county manager, the county attorney, and the commission auditor. I don’t see any

reason why they should be calling someone in the field and asking when a ditch is going to be done, it needs to go through the county manager. Mr. Watts is correct, if the commissioners feel that the county manager is not behaving properly, they can fire him, he is an at-will employee, or they can conduct an investigation. In connection with the investigation, consider whether you need to specify if the commission has subpoena powers; Mr. Watts, I don't know if that is inherent. The other thing I would suggest is if you want constitutional officers to be subject to this, that you specify it and don't leave it for interpretation, put it in there, county officers include the constitutional of, and then specify them. Agenda item number four, The seven member issue I have spoken about before and I still feel that you should give it a chance to work and leave the five single-member districts the way that they are and let it run at least one election cycle to see how the public feels about it. It is too soon to try and cure a problem and maybe one doesn't exist. On the citizen's initiative issue, I think that Mr. Puckhaber is going to correct agenda item number five which should be seven percent of the electors qualified to vote in the last preceding election. I support that and believe that is a reasonable compromise between what we have now and what has already been approved by the CRC which is ten percent of the electors. I think that seven percent of the electors is a reasonable compromise and is workable. It is difficult, but it is something that can be done.

**Jane Padgett:**

I want to commend you for the non-interference clause. I think it is a wonderful step in the right direction. I think we do need to be clear and cogent. I think you need to send the message that citizens are concerned about the way we have been ignoring our charter to this point. We do want to follow it more closely and we are getting things in-line now and you are doing an excellent job doing it, and I appreciate it.

Closed the public comments 8:00 Time Certain.

**Agenda item number four (Issue #1 – Should the BCC be expanded to seven members, discuss making one of the at-large commissioners an elected Chairman of the Board who would perform purely legislative functions along with the other six commissioners).**

Allen Watts: Again, Mr. Scruby has been very kind in discussing some of the thoughts that he had with this issue. I have his draft language as you do, regarding the proposal. Shifting from five to seven commissioners, and also considering whether or not you want to have an elected chairman are somewhat interrelated issues. There are several ways of doing the conversion from five to seven. One of them is probably the oddest one in the state and I referred to it when I was here before, and it is Pinellas County. In 1999 Pinellas County expanded their commission to seven. They made them four single member districts and three at-large districts. The three at-large districts run north and south generally. The single member districts run east and west. The purpose of having the four/three plan is so that everybody in Pinellas County has a chance to vote for four commissioners, the majority of the entire commission. It is kind of a clever plan that allows you to vote for the majority of your county commissioners even in the county where the majority of most of the seats are single-member seats. I don't know how else you might put it together. That is one plan. The Legislature allows even non-charter counties to go to seven commissioners by referendum. Chapter 124.011 (b) of the Florida Statutes addresses this (passed out for the CRC's review). This is the statutory plan for non-charter counties who want to go to

seven. As you see here, the only option is to have five single-member districts and two elected at-large. What you have in front of you that you have produced so far is an option that says five single-member districts/two at-large; but the two at-large must come from residents area, each of them consisting of approximately half of the county. That is another way of doing it. Those are some options that you can treat and not reinvent the wheel; or, there are other ways of doing it particularly if you want to get into a chair elected at-large. That is probably enough to chew on right now.

Gordon Jespersion: I think that there are two issues here; first, whether it is going to be seven members, and second, if it is going to be seven members with the two at-large we wouldn't be able to have the two at-large coming from two different districts and have one of them be the chair. So maybe we should take one issue at a time starting with whether it is going to be seven members or not.

Ralph Puckhaber: I would disagree, I think we first have to decide if we want to have an elected permanent chair because you almost have to make that an at-large county position, and then work backwards. We have already said that we like five single-member districts and two at-large unless people are thinking about changing their minds. We can't have an elected chair if you have resident districts. What portion of the county gets to elect the chair if we do that?

Gordon Jespersion: That was my point, you have to decide one or the other first, whether you will have an elected, or the seven members. Increasing to seven members is probably the more controversial.

Ralph Puckhaber: If I am not mistaken, we have already had a motion that we would go for a seven member commission.

Rob Bradley: I think that was to prepare for our review for a public hearing.

Chairman Cummings: Ms. Lake provided an editorial from the Times Union regarding a strong mayor form of government. The article explains why a county without a strong, independent, elected executive like Clay County needs one in times of crisis. It is comparing the strong mayor in Jacksonville from the executive branch and gets into another issue of whether this person is on the BCC or not. I want to clarify that this article was good. I was at the county workshop yesterday and one of the issues that came up was that the commission had terminated their relationship with a county lobbyist. What came up was who should be the lobbying figure for the county. Commissioner McGovern and Commissioner Bush both said that County Manager Fritz Behring has had a lot of lobbying experience and may be a key figure for that, in the past, the county manager was not used for that function. If you have the right county manager who is a good leader, has a good vision, and relationships either in the state or national level, that will help. One of the things that Commissioner McGovern said is that the BCC chairman changes every year. The commissioners' change every four years and there is not much of a stability or continuity for that particular function of government. They asked Mr. Behring what he thought, and he said that he has been involved with lobbying and looked forward to doing so again. He usually would see this done with a mayor or an elected chair. When he was on the national and state level he saw better results with that elected official with him because Legislators like to

hear from a key leader or elected official. Ann Mitchell provided an email from Rob Bradley that he would be late and he wanted the CRC to know that he intended to discuss the concept previously put forth by Commissioner Jespersion for the County to adopt a three single-member and two at-large system for the election of the BCC. It has been confirmed with Mr. Watts that such a system would be legal under our state constitution.

Rob Bradley: This has been a process that has evolved. One of the things that drove the evolution in this process was that early on it was our understanding that the group could not do what I have outlined in the email where we had continued with five, but divide them to three single-member districts and two at-large. Mr. Jespersion brought this issue up at one point and the advice was that this was not something that we could do according to the statutory options. Therefore we moved on. How else can we approach this issue? Now that it is obvious from Mr. Watts' comments and from the Pinellas County's plan, it is certainly an option on the table for us and that changes everything for me personally. This is not changing course mid-stream because we are wishy-washy because now we have new rules to govern what our options are. Now that I understand that this is an option, it changes my perspective on the entire issue completely. When I speak with the citizens in the community, the first thing they say is why we want to go from five to seven and incur the cost of having two more commissioners. I don't think that is particularly important, because I think in the scheme of things it would be less than hundredth of one percent of the budget/ We are not talking a lot from year to year for what ever reason that resonates with citizens. They look at that figure and immediately recoil because of the cost. You have to step back and realize that this is a budget of \$200,000,000. In the grand scheme of things, if it makes us a better place, then that is the best money you could ever spend.

That led me to think about what is important from my standpoint and there are a couple of things in mind. One, I think that the right thing to do, and I don't know if it will be popular or no and that is to achieve a balance between these localized interests and regional interests. That is what our founding fathers did when they took the Senate and the House; the idea that you have people who consider the over-all good, and you have people who consider the localized interest, and at the end of the day you have produced a better product. I would like to see that. I am not against single-member districts, as a matter of fact, as time has gone on I can see the benefits of those. However, I think that there is a way to enhance them to make them even stronger and that is by adding at-large to the mix. The other thing that strikes me as very important as a voter is that as it stands now, I can only vote for one of the five commissioners. If we went to a situation where we had three single-members and two at-large, then I would be able to vote on the majority of the commissioners. That is important, to be able to vote for the majority of the commissioners. That is obviously what Pinellas County was thinking when they devised their very interesting plan. This is not something that we were going to decide tonight, but it is something that I wanted to throw out to think about. Now that this is on the table it changes everything. Included in that is the strong mayor too.

Chairman Cummings: One of those two at-large would be an elected chair.

Ralph Puckhaber: Rob you are actually looking at a down-size version of Pinellas County. It is kind of unique for this county. You look at one of the at-large as being an elected chairman, the

other at-large would be just that, and we would have three districts. It is not a bad idea; I would like to mull it a little bit and am curious as to how we would transition from what we have now.

Rob Bradley: This is the beginning of the discussion and those are all things that I would like to discuss.

Gordon Jespersen: Originally when we discussed the possibility of different ways without increasing the number of commissioners as Mr. Bradley mentioned; in reading the statutes and talking with Mr. Scruby, you didn't think that it was possible to have just five and do a split.

Allen Watts: Article VIII, Section 1E of the Constitution says that except where provided by county charter, the governing body shall be a Board of County Commissioners of five or seven members, one of the two plans. If you are a charter county, you can do anything that you want; you just end up with a legislative body. Jacksonville has 19 members.

Roy Lyons: In this three to two, will there be any restrictions on the at-large, otherwise they could come from anywhere in the county. One would be the chairman and the other one would be the at-large.

Mary Cooperman: My problem with the seven at this time in Clay County is at the end of this year we will have three sitting commissioners. The two at-large will be inexperienced and to have one suddenly in charge; the executive, the mayor thing – I am dead against that, somebody who knows nothing. That would be detrimental to the commissioners to suddenly have one of the new members in charge.

Gordon Jespersen: We elect people all of the time who does not have experience. If they don't have experience, then their opponent has a wonderful issue to beat them over the head with during the campaign.

Mary Cooperman: When you have three knowledgeable commissioners on the Board, why would you have some neophyte come in and be in charge?

Rob Bradley: Because the neophyte might reflect a vision for the county that the other three sitting don't have. That is the whole purpose. John Peyton had no mayoral experience, John Delany had no mayoral experience, and George Bush had no presidential experience. There are numerous examples in our history of people who went to the highest office with no experience. I have more faith in people.

Michael Q. Rogers: Mary, I certainly understand what you are saying, but I think that this county, businesses, and county government across the board have to be able to innovate. There are a majority of people who have never served on this council before, such as me. I think that our decision making process has strengthened as a result of new ideas, fresh blood and fresh approaches has moved us forward. I think that we have to be opened-minded and we have to look at those issues as they surface and make some real clear decisions.

George Espada: Unlike before, you now have a watch over the county manager who now has control. We have a lawyer advising us as a group and changes are coming about. To say that a young person is going to come in and he does not have an opinion; I think that it is ludicrous, because otherwise when you run for an election and you can't answer the right questions to get elected, you are not going to get elected. That is across the board unless you have a lot of money to buy the votes. In Clay County we are attempting to do what has not been done before; to safe-keep our county and to serve it better.

Gordon Jespersen: We have had some wonderfully experienced commissioners for years as I understand it in Clay County and we have ended up with a wonderful mess, so I am not sure experience is important.

Chairman Cummings: I will concur with Vice Chairman Michael Q. Rogers and Rob Bradley. All of our discussion is positive and healthy. All of our ideas are helping us to move forward to complete our job. Opinions are being shaped and we have moved forward.

Bill Garrison: I don't think that any of us need to apologize for having an open mind on these issues.

Una Cornelius: If we did this we would have to draw new district lines because now we have five commissioner districts and if we go to a three single-member districts we would have to re-draw the lines.

Gordon Jespersen: New lines would have to be drawn but that is not our job.

Allen Watts: If you were to adopt a different plan than what we have now, the way it would work would be that it would go to voters in November of 2006. If it were adopted, there would be a transitional language that says that in 2007, the Board of County Commissioners shall divide the districts. There would need to be a protection of incumbents; this has happened in other places. You would probably provide that those who are going out of office to become the at-large seats; and the three seats the incumbents can hold onto until the end of their terms, or however you decide to do that. Those are transitional provisions that once the transition is completed, they drop out of the charter.

Ralph Puckhaber: If something like this was on the ballot and if it was passed in November that would direct the current commission to put in place the new districts. Would we be looking at actually going to that election in 2008, or would you go to it in the middle of the term?

Allen Watts: It would depend on which seats were numbered to become single-member seats and who was going out of office in 2008.

Ralph Puckhaber: There is an election in 2006 and 2008, but you mentioned 2007 you would put this into effect. I am thinking that it would be in election 2008 where the re-arrangement would actually occur.

Allen Watts: You can only redistrict in an odd number year. So if it were adopted in 2006, the new lines would be drawn in 2007 and would apply to the election of 2008. There might be transitional provisions to make some of your county commissioners' incumbents in those newly created districts for the balance of their terms, so it would be the 2010 election before you might have a full transition completed.

**Rob Bradley made a motion to include on the next agenda discussion of a three-single member district and two at-large member districts for the election process of the BCC. Seconded by Roy Lyons, which carried 15-0.**

Chairman Cummings: Regarding agenda number four left on the table, we have had a motion for a charter amendment based on the three and two concept from Mr. Bradley. What is the wish of the group on the discussion on the elected BCC chair that was mentioned on agenda item number four? Mr. Scruby did draft a charter amendment which showed the ballot summary and the amendment to go from five members to seven members, those being at-large. We have not voted on that to go to a public hearing. We now have another draft that we approved tonight. We still have this BCC chairman issue that I am bringing up to see if we want to discuss it.

Roy Lyons: I believe what Mr. Bradley said about the three and two suggestion that one of the at-large would be the chairman, and the other would be an at-large. Both of those would be at-large, so they are included in it. I did ask that they would both be at-large coming from any part of the county.

Chairman Cummings: Regarding agenda item number four, are you saying that instead of seven members that one of the at-large in the three/two model that we have mentioned would be elected chairman of the board and perform purely legislative duties.

Rob Bradley: I just brought up this issue and would like for everyone to talk with their constituents and do all of the things that you do as a CRC member. There should be two separate agenda items; one that continues the agenda item as it currently exists where you expand to seven, and a separate agenda item that reflects what I have proposed which is the three/two, but also including the Chairman of the Board.

Michael Q. Rogers: I think there are three issues. I would like to break out all three of those issues.

Rob Bradley: I would be supportive of that as well. You would have five to seven, with two at-large; the three/two with three single-member districts and two at-large districts; and an elected chairman of the board at-large.

Chairman Cummings: What do we want to do with the current draft that is on the table regarding the five single-member districts to seven with two at-large? Are we prepared at this time to send that to the public hearing stage? Remember, you can have both of the amendment proposals at the public hearings to be heard.

Jim Gann: We need to deal with the three issues first.

Gordon Jespersen: For the group, would it be helpful to have a draft of the seven members with two at-large, absent the two districts, and a draft the three and two?

Bill Garrison: I think that is premature to draft the ballot issue when we really haven't discussed it. What we really need to do is to set a good portion of an upcoming meeting to discuss this issue; it is a deep subject.

Chairman Cummings: The next meeting of March 20, 2006 we will get into this issue, as well as several others. I will place on the agenda the draft of the five to seven corrected from the original draft that included the boundaries. We also discussed that should the model be approved or recommended, that one of those would be the elected chair. The other model would be the three/two model.

Michael Q. Rogers: I will go out on a limb and say that I would benefit from seeing these models in writing. I know it is additional work but in order to be effective we need to appeal to everybody's learning style. Some people learn by seeing it, reading it, and certainly discussing it. I would like to see it in a draft.

Chairman Cummings: Allen Watts could do a summary on each of the issues we have discussed.

Allen Watts: Are you looking for a draft as you have been previously presented?

Rob Bradley: Make a draft to look like a charter amendment.

Gordon Jespersen: The obvious is that these are just the proposals. The other one can stay the way it is, because we are already late.

Rob Bradley: Are we going forward with the drafts? What is the mayor one going to look like, we haven't really discussed it?

Allen Watts: I haven't represented a whole lot of charter review commissions. In my own county I was appointed to one and what I am passing out to you is what their county attorney gave us when we were wrestling with the elected chairman issue. There are five different options in the package. The one that was finally adopted in Volusia County is the first one, it is a five single-member, two at-large, with one of them being the elected chairman. The other choices vary from six and one, to the one that I really like was three districts, each electing two commissioners and a chairman at-large. That way everybody had somebody to vote for every time they went to the poll. This is just for your information.

**Agenda number five (Discussion on changing the charter amendment recommendation entering public hearing from ten percent of the electors qualified to vote to seven percent of the electors qualified to vote).**

Ralph Puckhaber: Recalling our discussion, I think that we have rushed this issue a little, as we have been trying to get some of the issues off of our list and moving forward early on. This was my proposal originally and it was my intent to make this seven percent of the electors. The

reason that I did that was to not make it more difficult to get a citizen initiative through, but to eliminate the cycling nature of having it based on the preceding election, particularly when I checked with the voting and what the county looked like. In 1998 only 46 percent of the registered voters show up to cast a ballot. In the year 2004, there were 77 percent casting votes at the ballot. Depending on your point of view, the good and bad of that is that if you wanted to try and get signatures the year to do would be the 1998 and the 2000 elections because your numbers were low. The worst year to try to get signatures is this year because not only did we have one of the highest turnouts ever at 77 percent we actually had over 23,000 new registered voters between 2002 and 2004. We not only bumped up the number of voters in this county, a whole lot more of them decided to vote. The point that I was making was to eliminate this and try to get a more linear model in place that would more accurately reflect the growth of the county rather than what is on the ballot that cause people to vote. Looking at this, it appears to me that if you made it seven percent of the registered voters (the elector), that you would achieve that linear growth that you are looking for and you would get rid of that up and down nature. It would roughly approximate what has been required on the previous elections. For example, after the 1996 election it would have required 220 additional signatures. After 1998 it would have been 550. That was the year that the voter turnout was so low. After the 2002 election, it would have only been 100 more signatures. This year, if this was in place it would be over 700 less than required under the current language. That was the whole purpose of it. I am prepared to go back to my original intent which was the seven percent of the electors registered to vote.

Roy Lyons: I was the one who argued for ten percent on this because I don't believe it should be easy to change our constitution, nor do I believe it should be impossible to change it, or gather the signatures needed to do it. I had some input from citizens in the community and instead of the ten percent; I would like to offer eight percent. Eight percent would not be lower from what it is right now and it achieves the goals that Ralph is wanting. Eight percent is what is used in the State Constitution, although their eight percent is of those people who voted in the last presidential election. Again, in order to have this process even this should be based on the registered voters because the registered voters are all qualified to sign petitions. Whether they vote or not is immaterial, they are all qualified. I think that eight percent is a fair compromise on that.

Michael Q. Rogers: Roy you said the State Constitution dictated eight percent?

Ralph Puckhaber: If you do a state-wide initiative it says that you have to get eight percent of the number of people who voted in the last presidential election. There are also some additional requirements from the state in that they have to come from certain congressional districts, etc. It is Article II, Section 3 of the State Constitution.

Rob Bradley: Watts', is it a situation that you can't have of the votes come fro Miami for instance, so they try to apportion it across the state so that you get a certain percentage from a congressional district?

Allen Watts: That's correct, and in some county charters, depending on how many districts that you have. If you have to have six percent, eight percent, or ten percent from each of three different districts, and eight percent of the total.

Ralph Puckhaber: If you look at the history of Clay County's Home Rule Charter, the original charter was ten percent of the registered voters and they had to come from specific districts. So the current language has changed from the original language.

Rob Bradley: It seems like your original point was not to make it so that you have to get more signatures, but to level it out. I am intrigued by this idea. What is good for Keystone Heights is not necessarily good for Middleburg, and not necessarily good for Orange Park. Someone could get all of the signatures from Orange Park or from a rural area; what about the idea of incorporating this apportionment.

Roy Lyons: Yea, because what could possibly happen is that you could get 8,000 signatures and they could all come from Orange Park and Fleming Island. The citizens in Middleburg and Keystone Heights could go to the polls and not even know what was going on, they should be involved in this. We have the five single-member districts; apportionment should come from each one of those districts.

Rob Bradley: That seems to be the general trend of the voters in that they vote on the single-member districts. A lot of the argument is that we did not feel like there was somebody close enough to us; that would be consistent with single-member districting.

Ralph Puckhaber: Rob the old language of the charter was ten percent of the electors and then the signatures must be gathered in such a manner so that not less than three of the five county commission districts contribute at least ten percent to the foregoing countywide total.

Rob Bradley: Obviously they changed it so that fewer signatures required. I don't think that I would want to make it that you would have to get more signatures than you do right now. I am supportive of the concept that is in our state constitution that we be fair to everyone in our county. I would like to propose adding that to the mix as well.

Roy Lyons: I would still like to go with the eight percent because it is consistent with what is required now. Seven percent is less than what is required right now.

Ralph Puckhaber: Only this year Roy because of the turnout was lower.

Roy Lyons: No, we are talking about registered voters.

Ralph Puckhaber: Right, but what I am comparing this to, is if you look at how many electors was registered and you take a percentage of that, in some of the previous years it would have been 100 to 200 additional signatures if it is at seven percent. This election cycle would actually be about 700 less, but it is because we have ever had 77 percent to show up and vote on anything. It has been more traditional in this county to have a turnout in the 60 percent range over the last five or six elections.

Roy Lyons: What we are talking about are registered voters. We have 106,000 registered voters. How does that seven percent compare with the ten percent of those who voted?

Ralph Puckhaber: Under the current language, ten percent of the people that voted in the last election would be almost 8,200 signatures. Under the seven percent, it would be about 7,450.

Roy Lyons: What I am saying is the numbers should not go down. Eight percent of the registered voters this year are equivalent to the ten percent of the people that voted. If you go to seven percent, it's less; there is no reason to lower the requirements.

Ralph Puckhaber: I disagree with you Roy, and the reason is that I don't think you are lowering the requirement; you are looking at it strictly with this election cycle. I am looking at it with some previous election cycles included. I personally don't think that a high 70 percent turnout is sustainable, election after election. It is not going to happen. It is based on how many people vote. What I am saying is if you look at this over the last five elections, which is ten years at seven percent, it closely follows what has been required, it is a cycle. In so many years this line is a little bit higher, and in some it is a little lower. You can't predict how many people are going to actually show up and vote. I agree with you on this point Roy, in that I have never liked the idea that you base a number on people who vote, yet you are allowed to go and get signatures from people who didn't vote. You pick one universe or the other to work from. It's very difficult, almost impossible to go and get ten percent of the people who voted in the last election. Their signatures are only going to be valid if they actually voted. You can't do that so look at the people who are actually registered.

Bill Garrison: There are six counties that have ten percent, four counties that have seven percent, and two counties have five percent, and one county has eight percent and one has seven and one half percent. Half of those require percentages from each district. Only one of them has it from all of the districts and that is four percent from Brevard County. Four percent of the electors from each county commission district, that is the only one like that. I think that three out of five; if you say seven percent of the total electors, then seven percent from three of five districts.

Roy Lyons: If you take three of five you are going to eliminate Keystone Heights and Middleburg.

Bill Garrison: You are not eliminating anything; you are requiring that they get a broad spectrum of votes. You did not say that they had to come from district one, two, or three. They have to come from three of the five districts.

Roy Lyons: Where would you normally go with that?

Rob Bradley: Mr. Garrison, do you have any language regarding this particular issue that you would like to propose to go along with Ralph's number.

Bill Garrison: I don't. This is not a burning issue with me. Seven percent is fair; I like the idea of a consistent number.

Bill Garrison made a motion that we amend the charter language that requires seven percent of the electors; and the signatures must come from three of five districts.

Ralph Puckhaber: The signatures must be gathered in such a manner so that not less than three of the five commission districts can contribute at least ten percent of the qualified electors of the foregoing ten percent county-wide total. I share Karen's concern living in the northern area of the county that Keystone Heights can get left out even with that language if you don't require something from all five districts we are going to continue to ignore the southern end of the county.

Bill Garrison withdrew his motion.

Ralph Puckhaber: Until we have a substitute for the previous amendment we are taking to the public hearings, let's leave it on the table and weed through it at a later date.

**Ralph Puckhaber made a motion for a charter amendment draft for the citizen's initiative that the requirement is seven percent of the qualified electors in the county, and at least seven percent of the total number comes from each of the single-member districts. The signatures must be gathered in such a manner so that not less than three of the five commission districts can contribute at least seven percent of the qualified electors of the foregoing seven percent county-wide total. Roy Lyons seconded the motion, which carried 14-1.**

**Agenda number 7: Tabled to the meeting of March 20, 2006.**

**Agenda number 9: Tabled to the meeting of March 20, 2006.**

**Agenda number 10: Tabled to the meeting of March 20, 2006.**

**Agenda number eight: Discussion to reschedule public hearing dates.**

Bill Garrison: The requirement is that we present it to the BCC at least 90 days prior to the general election. Counting back 90 days is Wednesday, August the 9<sup>th</sup>; the BCC meeting prior to that date is Tuesday, August 8<sup>th</sup>, 2006. If we maintain our current schedule for the first Thursday, and third Monday, that will give us a total of eleven meeting dates between now and August 8<sup>th</sup>. Take out three of those for public hearings and I deducted two more for post meetings of the public hearings, which will leave us with only six meetings, and will take us to August 8<sup>th</sup>. We are completing one of those meetings tonight. We have March 20<sup>th</sup>, two in April, two in May, three public hearings, and then two more meetings. We need to get aggressive.

Michael Q. Rogers: I am not advocating more work, but maybe we should consider adding more meetings. We are doing a good job but I think that we are running out of time.

Chairman Cummings: I think that we are getting to the point of whether it is the three/two, or the five/two, and the BCC Chairman. I am not so sure that in another meeting or two that we should be ready to go with these issues. We can schedule a public hearing and move forward.

Ralph Puckhaber: I know we are limited on the meeting dates and I am willing to sit here longer. I would like to just briefly discuss two items while Mr. Watts is here to give us feedback and something to think about for our next meeting. One of them is Mary's issue with the constitutional officers and the other is that we seem to have gazed over our Ethics Code.

Chairman Cummings: I am not so sure; we may have overlooked it in the transition and the language has not been drafted. Perhaps we can have Allen Watts draft a charter amendment that can be discussed at the next meeting

Jim Gann: Regarding the constitutional officers, we are looking at dividing the budget oversight for the constitutional officers.

Rob Bradley: Mr. Watts he has provided us with a proposed clause from Columbia County's Charter which is about investigations and subpoenas. We already have it – here it is.

Rob Bradley made a motion to reduce the proposed clause for the Columbia Charter to a written draft for the CRC's review at our next meeting of March 20, 2006.

Allen Watts: I have a memorandum that will brief you a little more on the status of the constitutional officers and what you can and can not do. If I had known we were going to get into more depth of this issue I would have brought it with me. I will be glad to distribute that to you at your next meeting so you will have a chance to study it.

Rob Bradley: Is this a reflection of that discussion in your memo of Columbia County?

Allen Watts: Actually, it deals with the whole question of the interplay between the Board of County Commissioners and the Constitutional Officers, assuming that they retain their constitutional status; how far can the Board go and how far can it not go, oversight, budgetary matters, and so forth. I would like to share that with you.

Rob Bradley: Withdrew is previous motion.

Chairman Cummings: The next meeting is Monday, March 20, 2006, 7:00 p.m., BCC Meeting Room, Green Cove Springs.

#### **Other Discussion:**

Chairman Cummings: I was approached by Commissioner Harold Rutledge at a county workshop yesterday and he asked when the CRC was going to invite the commissioners to speak at our meetings. He is eager to speak to us and he previously attended our meeting in Keystone Heights. I email all of the commissioners to invite them to one of our meetings and they have not responded and I am assuming they are not interested. After discussion, it was the general consensus of the CRC to invite the commissioners to attend one of their meetings and they could speak during the public comments, or they can email the group as a whole group.

#### **Public Comments:**

##### **Durwood Smith**

It seems obvious to me that in the windup, unless there is some change between now and the time to vote on the ballot, that the intention is to make it harder for citizens to operate, if at all. This business of having to have a certain number of signatures from each of the districts makes it next to impossible, I mean next to impossible. I am not going to say it is, but it is impossible enough that it is not like it ever happened. So if you ever want to allow the people to put an

initiative on the ballot again, you don't need to make it so hard that it is impossible. From what I have heard, I think it will wind up being impossible so we might as well forget about having a citizen initiative.

**Jane Padgett**

I will underscore what he has said. I have one question to ask when you were discussing adding the two at-large, whether it is five or seven; my question is, what kind of problem has been caused by single member elections that we are trying to solve, it has been a little over a year. I will have to say the same thing that I have spent a great deal of time on the citizen initiative. There are three ways to change the charter, the only one that you have ever looked at to make more difficult, or to change in any way is the citizen initiative. I was going along with you; I think you have some good rational with seven percent; of course any kind of percentage is always going to go up because this county is growing by leaps and bounds. I was telling these young people what a privilege it is to be in a charter county because it encourages citizen participation in their government. I can not think of one reason of why you are doing this except that the citizen initiative process has been used to bring about two changes in this county that those of you who have spoken up have a philosophical opposition to term limits and to single member elections. So you're personally against it, those of you who have spoken up. When you are out there getting these signatures you have to understand that people don't have to have their voter registration cards with them, they only have to have their birth date. They couldn't tell you what district they are in, etc. They don't know that, there is no way we have of knowing that. This is the most mean-spirited attempt to limit citizen participation in their government that I have ever seen. I wish those kids were still here. There is no way we could guarantee a certain percentage from every district, we don't know what they are when we are out there; we don't know that until they are already turned in at the Supervisor of Elections Office long after there is no workable thing that you can do. I thought seven percent was something that was fair, I was with you, but this is totally in my opinion mean-spirited and an attempt to keep us from doing what we have been doing.

**Mr. Boyer**

I agree with the recent comments of the five district members. I want you to remember that a large percentage of the people in this county voted for five individual commissioners for each district; one for each district. Why do you want to change it right now, because it has really don't know how it is going to grow. With this strong county manager that we have now, I think it is going to be good. Adding two more at-large members; when you are looking at the single district members, anyone can run for commissioner. It does not cost that much as long as you are dealing with a small district to get an electorate to vote for you. If you go county wide, it is much more difficult and it takes a lot more money to get all of these electorates. The seven, with the two at-large, it is the same thing. They are going to be well financed and that is not good.

**Fred Birkholtz**

I support what Mr. Boyer has said, he was very sacrosanct and correct.

There being no further business the meeting adjourned at 9:55 p.m.

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**Chairman Travis Cummings**

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**Recording Secretary, Ann Mitchell**