

## DRAFT

### CHARTER REVIEW COMMISSION MINUTES

The Charter Review Commission met in session at 3:00 P.M. on Thursday October 29, 2015, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, Bldg. "C", 2nd Floor, Space Coast Room.

Kendall Moore - Chairman Kendall Moore called the meeting to order at 3:05 p.m. and proceeded with the roll call.

#### Board members present:

Mr. Kendall Moore, Chairman, District 1

Ms. Maureen Rupe, District 1

Dr. Ron Bobay, District 1

Mr. Chuck Nelson, District 2

Mr. Henry Minneboo, District 2

Mr. Cole Oliver, District 2

Mr. James Rosasco, District 3

Mr. Dale Young, District 3

Mr. Tom Jenkins, District 4

Mr. Peter Fusscas, District 4

Mr. Marty Adams, District 4

Mr. Jack Ryals, District 5

Mr. Jason Steele, District 5

Chairman Moore stated that for the record, the Board members absent from the meeting today are: Mr. Matthew Nye (District 3), and Mr. Scott Sorensen (District 5). He noted that there are thirteen (13) Board Members present who will be voting throughout the meeting.

Staff members present: Wade Vose, Charter Review Commission Attorney  
Al Schwarz, Partner, Vose Law Firm  
Ms. Sandy Smith, Administrative Secretary

Kendall Moore – Chairman Moore asked Mr. Rosasco to lead us in the Pledge of Allegiance.

James Rosasco – Mr. Rosasco said he would be honored.

Kendall Moore - Chairman Moore stated that he will skip Item II on the agenda as the minutes from the October 15, 2015, meeting are not ready to present. He stated that they will be available at the next meeting.

Chairman Moore said the Board has a memo from Theresa Camarata, Central Services, and Leslie Rothering, Purchasing Department as to the action taken by the Board of County Commissioners on October 20, 2015, relative to the contract for our 2015-2016 CRC attorneys. He advised that he has been in contact with Mr. Vose, but as of the beginning of our meeting today, Mr. Vose is operating without a contract. Chairman Moore said as far as he knows his contract is still in the hands of the County Attorney; however, he has assured him that he would be paid for his services today. He said that Mr. Vose and Mr. Schwarz will address the Board a little later, but just to be clear, they are our counsel of record, so any questions should be directed to them, and not the County Attorney's office.

Maureen Rupe - Ms. Rupe stated that just a point of order, both of the doors are closed and they need to be open during the meeting.

Wade Vose – Attorney Vose said he would agree with that.

Kendall Moore - Chairman Moore thanked Ms. Rupe on the point of order. He advised that there is a one page CRC letter that will be sent out making the public aware that we will be meeting to start the review of the Brevard County Home Rule Charter. Chairman Moore said the letters will include the purpose of the CRC, as well as where and when the meetings will typically be held, and asking them to contact us if they have any desire to participate. He added that the letters will be sent to government officials, including cities and municipalities, public officials, private entities, community organizations, League of Cities and League of Women Voters. Chairman Moore stated that if anyone has any other person, entity, organization or group they wish to

have added the mailing list, please make us aware, and we will get the letter to them as well. He noted that the letters will go out after this meeting.

Chairman Moore advised that he has met with Don Walker, Director of SGTV/Communications Office, who has agreed to assist us in getting a press release out relative to the Charter Review Commission, but the actual press release will come from the Charter Review Commission office. He advised that he reviewed the media list which contains over 102 media outlets in Brevard County that will be contacted. Chairman Moore asked if the Board has any other media outlets that they would like added to this list, if so, please make Ms. Smith aware of them as well. He said they specifically told Florida Today newspaper, and some of the others that we would like to see articles relative to the Charter Review Commission, so he would expect to see that in the very near term. Chairman Moore said there had been discussion about social media, and he advised that Mr. Walker also has a County social media page. Chairman Moore stated that he wants to make sure the County Commission is okay with this, but his thought is – we don't intend that a county employee would be speaking on our behalf relative to any issue. He said if we did something on social media it would simply be posting and making available when and where we are having meetings. Chairman Moore stated that we don't intend to convey anything about what is going on in that regard. He asked if anyone has any concern about using the County's conduit as our social media, relative to getting the word out about our meetings. Chairman Moore asked Mr. Vose if he had any concern relative to that.

Wade Vose - Attorney Vose indicated he had no objection.

Kendall Moore – Chairman Moore stated that there will be no dissemination of issues, positions or anything like that – this is simply another way to maximize getting the word out to the public. He advised that IT is working on setting up a page relative to the 2015-2016 Charter Review Commission, and Ms. Smith has attended training associated with that process, so this will be completed in the very near future. Chairman Moore said that the public will be able to access information via this webpage which will include the CRC roster, meeting dates, time and location of meetings, agendas, minutes, 2015-2016 Rules of Procedure, as well as the agenda report form. He asked if anyone had any questions, if not, we will continue with the agenda.

Chairman Moore said we will move to the approval of our attorney contract. He added that as he had previously stated, this was approved by the County Commission on October 20, 2015. He asked Mr. Vose to come forward and introduce himself as well

as his law partner to the Board, to discuss our interaction with our legal counsel as well as procedural issues.

Wade Vose – Mr. Vose thanked the Board for selecting him as your general counsel for the 2015-2016 Charter Review Commission. He introduced, Al Schwarz, who is a law partner with the Vose Law Firm. Attorney Vose said Mr. Schwarz is a former Assistant County Attorney with Seminole County, and has practiced local government law for a number of years. He stated that Mr. Schwarz has joined him today because he will also be doing work with regard to Brevard County's CRC. Attorney Vose added that Mr. Schwarz will also be joining him at the Board's next meeting on November 12, 2015, as he may have to leave early because that is the same day Orange County is voting on a proposal to expand their County Commission. He stated that with regard to interacting with him and his office, he said initially he would like to facilitate some discussion about making sure everybody is on the same page. He said with regard to anything having to do with your role and responsibility as a member of this commission, specifically with the Sunshine Law, Public Records Law, or Chapter 112 – the Ethics Rules, he wants to Board to feel completely comfortable to call him day or night. Attorney Vose added that he will provide his cell phone number to each member, as well as his office number and email, as he wants you to be able to reach out to him at any time. He said relative to subsequent proposals that will be coming before the CRC that you may be formulating, he also wants to be completely available to each of you to discuss those issues. Attorney Vose stated that he wants to help you to understand the context, and point things out in the Charter that might interact. He added that he will give you his initial thoughts with regard to the constitutionality and legality of that, and may suggest some alternatives. Mr. Vose said this may vary depending on the particular proposal, but it may make the most sense, being mindful of your budget, to put your proposals down in your own words, rather than coming to him for formal drafting. He added that he thinks initially you will want to get the proposals out there and see if there is an appetite for it. Mr. Vose said then it can come back for formal drafting as far as what the Charter language would look like, as well as the Ballot Title Analysis of it. He stated that he had a chance to speak with the Chairman about procedure with regard to how this has worked in the past, but he is open to any thoughts or suggestions on how we want to proceed.

Kendall Moore - Chairman Moore asked if the Board had any questions of Attorney Vose. He recognized Dr. Bobay.

Dr. Ron Bobay – Dr. Bobay said he'd like some clarification, should we as a group have a discussion about conceptual things before we actually submit it to our attorney for wording, providing there is a consensus of what we are proposing. Or would you prefer to have more formal wording, after we've done informal conversation with you.

Wade Vose – Attorney Vose said his initial thoughts would be to draft the proposal to present it to the CRC. He added that there may be some interaction here, before it is even presented in writing, and that will be at the discretion of how your procedures will work out. Attorney Vose stated that a member of the CRC, or the public could come up with an idea, formalize it in their own words, and then he could take a look at a draft and give his feedback, thoughts, or suggestions on how to tighten certain things up. He said this would not be the time for the formal drafting and final wording, and then it can come before the CRC if there is any appetite for it. Attorney Vose stated that it has been his experience – depending on the type of proposal, where folks in theory or abstract like an idea, but whether or not they would actually vote for it will depend very much on the details. He said they may say, yes I like the idea generally, but I want to see the particulars before I commit. Attorney Vose stated that would be the point where it would be sent to him to put together formal language, and then present it to the CRC, who could rip it apart and put it back together again.

Kendall Moore – Chairman Moore stated that Dr. Bobay may recall in the past, we may have some very basic threshold questions about a proposal regarding constitutionality or something like that, that Mr. Vose could entertain. He said presumably the formal drafting; once we get to the ballot language would be post the CRC's approval - which we've got something that has a chance of going forward. Chairman Moore stated that there will be times when we'll have some threshold questions; however, we can't talk to each other, so we will look to our attorney for some direction.

Dr. Ron Bobay – Dr. Bobay said as he recalls from the last time, we had work sheets, and we ended up putting some kind of language to it, even though it wasn't final language necessarily. Then that information would get disseminated, and then we would have discussion. He said wondered if that is the approach we are going to take, or whether conceptually there will just be informal conversation here at the CRC level.

Kendall Moore - Chairman Moore stated that he does not think the rules preclude either. He said what he means by that is - if you have a proposal, idea or a concept that you would like to bring forward, or a part of the Charter that you want to discuss, you can ask that it be placed on the agenda.

Dr. Ron Bobay – Dr. Bobay said then just have discussion and not necessarily write it up on the worksheet, right?

Kendall Moore – Chairman Moore stated that for the purposes of tracking them, you want it to be an agenda item. In other words, something that you would submit at least with a title of your choice, so that we can try to schedule the agendas out and not have too much or too little in terms of the upcoming meetings. He asked if there are other questions for Mr. Vose.

Wade Vose – Attorney said two other things that he would like to point out, one is that there may be times, despite their experience, where he will tell you that he will have to go back and do some research. He added he may have to sensitize a couple things to try to understand what the Florida law may be as to where things may going, and then report back to the Board. He stated that he will try to be very clear when he is saying – proceed with this idea, and assume for now that it is all right, but that I will have to research further and will report back to you. Attorney Vose said another thing he would like to address, as a general matter, if members of the public that are not on the CRC have ideas that they want to present, he does not see that it is his role to represent or help them in forming those things up. He added that the only way he would do that is if the Board directs him to do so. He added that the Board can ask him for advice, and to provide direction, but he will only do that for members of the public at the direction from the CRC.

Kendall Moore – Chairman Moore asked if the Board has further questions. He recognized Ms. Rupe.

Maureen Rupe – Ms. Rupe said as the proposals come before the Board, will the general public be allowed to speak on each proposal after the presentation and discussion by the Board.

Wade Vose – Attorney Vose advised that there has been a recent change in Florida Law as it relates to this. He said the Sunshine Law was amended in 2013 to add a new Section – 286.0114. Attorney Vose stated that for the first time, Florida Law now requires some minimal requirements concerning public comment at public meetings. He said basically what the Statute requires is that prior to taking final action on a matter, the public must be provided a reasonable opportunity for public comment on the matter. Attorney Vose added that the Statute is clear – it states that the public comment need not occur at the meeting where the final action occurs, but must take place at sometime during the decision making process, reasonably approximate to the

decision. He stated that there are a lot of different ways Boards comply with that – sometimes when formal action is being taken, a Board will open up for public comment prior to taking a vote on each item. Attorney Vose added that there may be public comment at the beginning of the meeting relative to anything on the agenda. He added however, he hasn't taken a look at, or confirmed the rules that this Board re-adopted, and whether they sufficiently embody the new Statute in that process. Attorney Vose stated that whichever way the Board decides to do it, he will make sure that it is at least minimally compliant with the Statute.

Kendall Moore – Chairman Moore stated that what we typically did in the past was allow the public to speak on each proposal, in fact; we were very liberal in our ability to hear from them. He added that there were one or two instances where the public tried to take over our meeting, and we will not have that scenario again. Mr. Moore advised that there is an unarmed security officer on duty down stairs, and if notified, he will remove them from the meeting if they are being disruptive. He said we are very open to hearing public comment, establishing a time limit for people to speak, but we will not allow the meeting to be disrupted. Chairman Moore asked Attorney Vose to contact the Supervisor of Elections Office, as it is important for us to know what deadline they have set for all of this documentation to be submitted to them, keeping in mind, we must also comply with the County Commission as well, in order to be placed on the 2016 election ballot. He added that we have structured our meetings through the end of the year, and he asked Mr. Vose to come back at the next meeting with that information. Chairman Moore said this will greatly help us set an ultimate deadline, hearing proposals up and to a certain time, do our final work, and then be able to move forward from there. He added that this would allow us to set our meetings after the December 31<sup>st</sup> timeframe, so we will know exactly what the dates are, and not have any surprises after that.

Wade Vose – Attorney Vose stated he would be happy to do that. He said that your Charter specifies when you have to be done with your work, but experience has taught him to confirm that deadline date with the Supervisor of Elections Office, to make sure it is consistent with Federal Law, and other laws addressing the mailing of ballots overseas and things like that. Mr. Vose advised that if you do not comply with all these other laws, you will not be able to get this on the ballot for the election.

Kendall Moore – Chairman Moore said he will move to Item V on the agenda – Administrative Procedure in Reviewing the Charter.

Dale Young – Mr. Young said he hopes that we will use the agenda form for submittal of proposals that was used during the last review of the Charter.

Kendall Moore – Chairman Moore stated yes, this is a form that has been amended for use by the CRC, and this is what you would use to send your proposals to Ms. Smith so she can add them to the agenda. He added that these forms are available on the County's Webpage as well as in Ms. Smith's office. Chairman Moore stated that by using this form, we will be able to track the proposals throughout this process. He asked if there is anyone opposed to opening up the submittal of proposals from this meeting on. Chairman Moore added that if the Board would begin to submit proposals, so we could get through those before proposals start to come in from the general public.

Tom Jenkins – Mr. Jenkins asked if we can get copies of the Charter booklets.

Kendall Moore – Chairman Moore stated that Ms. Smith has booklets available, so just see her and she will provide you with a copy.

Tom Jenkins – Mr. Jenkins stated that he knows of nothing that compels us to change the Charter; we are required to review it, not necessarily amend it.

Kendall Moore – Chairman Moore said yes, that is correct. He stated that he would encourage the Board to submit any proposals they may have.

Henry Minneboo – Mr. Minneboo said he would like a more definitive timeframe for our meetings – say 3 to 5, as he has other meeting commitments. He said by setting a timeframe this would greatly help him in scheduling other meetings.

Kendall Moore – Chairman Moore stated that he would entertain discussion, or a motion on this subject.

Jack Ryals – Mr. Ryals stated that it was mentioned earlier that everyone's patience tends to start ebbing after about an hour and a half, and he would support that recommendation. He said if we're in the middle of something, certainly we will finish what we are discussing. Mr. Ryals added that his experience is that when you set a goal, you tend to stay on target.

Peter Fusscas – Mr. Fusscas said he does not think this is necessary. He stated that we have a responsibility to get the job done, and he does not think it is necessary to set a timeframe.

Maureen Rupe – Ms. Rupe stated that she agrees with Mr. Fusscas.

James Rosasco – Mr. Rosasco said he thinks we can simply say we are going to attempt to have two hour meetings, say 3 to 5. He stated that he does not feel this needs a motion, or needs to be written into our Rules of Procedure.

Kendall Moore – Chairman Moore stated that in hearing the sentiments of the Board, he will attempt to do agenda management perspective and try to be respectful of your time, and still making sure that everyone has an opportunity to be heard.

Jason Steele – Mr. Steele said he would make a motion to have our meetings from 3 to 5, with the flexibility to go longer in the event there is consensus of the Board.

Jack Ryals – Mr. Ryals seconded the motion.

Peter Fusscas – Mr. Fusscas stated that he understands what has been said, but he thinks our obligations transform a consensus. He said he agrees that if you want to set a 3 to 5 time limit, that's fine, but if something comes up that requires us to go on; we have a duty and obligation to address the concerns of the citizens. Mr. Fusscas added that he supports the motion, except that, lets just not have it as a consensus.

Kendall Moore – Chairman Moore asked Attorney Vose procedurally, if we establish this as a Rule of Procedure, it would be a simple majority vote of this body if we were to extend beyond that time that we previously established.

Wade Vose – Attorney Vose said - if you didn't specify otherwise. He stated that however, what he heard was there was a motion by consensus.

Jason Steele – Mr. Steele stated that his interpretation of consensus is a majority vote.

Wade Vose – Attorney Vose said if the motion is clarified to state that if it's by majority vote to extend.....

Dale Young - Mr. Young stated that if there is a question on the table, he thinks we have an obligation to stay until the subject is addressed.

Kendall Moore – Chairman Moore asked if there is any further discussion, if not, he would ask that all those in favor of the motion to please raise their right hand. Those opposed by the same. Mr. Moore said the motion passes by a vote of 10:3, with Peter Fusscas, Maureen Rupe and Dale Young voting nay.

Jason Steele – Mr. Steele stated that he doesn't think anybody on this Board is attempting to shirk their public responsibility, and he feels certain that everyone will stay here if there is a public need. He added that he thinks this can be addressed on a meeting to meeting basis.

Kendall Moore – Chairman Moore asked if there any other comments from the Board.

Dale Young – Asked Mr. Vose about conflict between the Charter, State Law and Constitution - what are the rules.

Wade Vose – Attorney Vose stated that State Law, Federal Law and the Constitution would prevail.

Kendall Moore – Chairman Moore asked if there is anyone in the audience that would like to address the Board.

Courtenay Barker – Ms. Barker stated she is the City Manager of the City of Satellite Beach, and also on the Board for the Space Coast League of Cities, so she is also here in that capacity as well. She said she just wanted to ensure that those letters and proposal forms are going out to each of the municipalities for them to be able to participate as well.

Kendall Moore – Chairman Moore stated yes, that is correct. He added that historically the League of Cities has been here over the last two cycles.

Chairman Moore stated that our next meeting will be on Thursday, November 12<sup>th</sup> in the Florida Room. Mr. Moore stated that if there is no other discussion, we will be adjourned at 4:26 p.m.