

**Summary of Discussion**  
**Broward County Charter Review Commission**  
**Wednesday, October 24, 2007**  
**Broward County Main Library**  
**100 South Andrews Avenue – 8<sup>th</sup> floor, (Room 8A & 8B)**  
**Fort Lauderdale, FL 33301**  
**10:00 AM – 4:00 PM**

**Members Present:**

Mayor Lori Moseley, Chair  
Commissioner Hazelle Rogers, Vice Chair  
Commissioner Hayward J. Benson, Jr.  
Mayor Debby Eisinger  
Ms. Maggie Davidson  
Mr. David Esack  
Ms. Patricia Good  
H.K. "Petey" Kaletta  
Mr. Mark Ketcham  
Dr. Mark Lieberman  
Joseph Maus, Esq.  
Burnadette Norris-Weeks, Esq.  
Bruce Rogow, Esq.  
Dr. Irv Rosenbaum  
Ms. Jodi Jeffreys-Tanner  
Mr. Wil Trower  
Richard J. Weiss, Esq.

**Members Absent:**

Michael L. Buckner, Esq.  
Commissioner Ted Mena

**Others Attending:**

Kareen Boutros, Executive Director, Broward Workshop  
Jim Cummings, Broward Workshop  
Chedley Etienne, Administrative Assistant, CRC  
Ellen Feld, Esq.  
Dan Glickman, Deerfield Beach, FL  
Matthue Goldstein, BC Planning Council, Assistant Planner  
Samuel Goren, Esq., General Counsel  
Yolanda Grooms, Administrative Specialist, CRC  
Maria Gross, Assistant Director, CRC  
Jacob Horowitz, Esq.  
Gloria Katz, Broward Smart Growth  
Phyllis A. King, Transcriber, PKING Consulting

Alain Levy  
Kimberly Maroe  
Carole Morris, Lead Intergovernmental Representative, SFWMD  
Alexis Moseley  
Russell Rand  
Vicki Pearson, Commissioner Wasserman- Rubin, Administrative Assistant  
County Commissioner Rodstrom  
Priscilla Rogers, Commissioner Ritter, Secretary  
Robin Rorapaugh, Hollywood, FL  
Lisa Vondrak, News Abstracts  
Brittany Wallman, Sun-Sentinel  
Patricia G. West, Executive Director, CRC

(A copy of the sign-in sheets identifying those present is filed with the supplemental papers to the summary of this Public Commission Meeting.)

A meeting of the Broward County Charter Review Commission (“CRC,” “Board,” or “Commission”) was held at 10:00 a.m. on Wednesday, October 24, 2007 at the Broward County Main Library – Room 8A and 8B, Fort Lauderdale, FL.

### **I Call to Order/Roll Call**

The Chair Lori Moseley called the meeting to order at 10:09 a.m. and requested the roll call by Phyllis A. King, PKING Consulting, Inc. Upon completion of the roll the Chair called for approval of the October 10<sup>th</sup> 2007 Summary of Discussion.

### **II Approval of October 10, 2007 Summary of Discussion**

**A MOTION was made by Mr. Weiss; SECONDED by Ms. Good. The Chair called for all in favor, I’s were stated and the motion passed unanimously.**

The Chair stated that she believes that it is an interesting factor that the County Administrator submitted her letter of resignation yesterday. She informed the Commission that there was a newspaper article that inquired about finding someone that has Airport and Seaport experience.

### **III. Chair and Executive Director’s Report**

Ms. West reminded the Commission of the cancellation of the Full Charter Review Committee meeting which would have been held on November 14<sup>th</sup>, 2007. She also advised that the next Commission

meeting will be held on December 12th, 2007 from 10:00 a.m. until 4:00 p.m., and will be webcasted in addition to all future meetings in room 430 or 422.

Ms. Eisinger asked if the Public Safety Subcommittee (PSSC) will be meeting on November 14<sup>th</sup>, 2007.

Ms. West replied that she was not sure. However, the Commission is moving forward with presentations from subcommittees once their work has been completed. She advised that at this time, the Health and Social Services Subcommittee (HSSC) and PSSC are scheduled to present at the December 12<sup>th</sup>, 2007 CRC meeting. She added that the Land Use Subcommittee (LUSC) was scheduled for today's meeting, but are continuing their work and will be re-scheduled to a later date.

Ms. West advised that the format of the current CRC meeting has been changed to allow for update reports from the subcommittees. She stated that the Administrative Issues/Governance Subcommittee (AGSC) proposed recommendation discussion to the full CRC would continue upon completion of the subcommittee reports.

Ms. Rogers requested a break consideration of Commission. She informed the Commission that she will be leaving at 12:00 p.m. and will return at 12:30 p.m.

Ms. West continued with her Executive Report and informed the Commission that the subcommittee meetings are being scheduled as needed. She advised that there **would** be a Public Safety Subcommittee meeting on November 14<sup>th</sup>, 2007 in the room 430 at 10:00 a.m. and the next Land Use Subcommittee meeting will be held on November 2<sup>nd</sup>, 2007 in room 430 at 8:30 a.m.

Ms. West reviewed the update information provided in today's Commission folders; which she explained should be added to the Commission's working documents binders. Items included were listed as follows:

- Memorandum 2007-20 from Legal Counsel - Re: Broward County CRC County Charter Non-Interference Provision
- Memorandum 2007-18 from Legal Counsel related to the Florida AGL2007.39 Code of Ethics
- Articles related to AGSC
- Joint TSC/AGSC – Minutes
- Revised proposed resolution - 10/13/07 Parks and Open Space
- Letter from Mr. Buckner to Commissioner Daniel Stermer regarding his appearance at the Transportation Summit
- Article regarding status of Transportation in Broward County after the Transportation Summit

- New Business - Memorandum from Mr. Goren - 2007-19 re: Request from Dan Glickman and Mark Ketcham regarding “*and via the internet.*”

Ms. West asked Dr. Rosenbaum if he is prepared to give the Commission an overview of the joint meeting between the AGSC and the TSC.

#### **IV. Subcommittee Progress Reports**

##### **1. Administrative Issues/ Governance & Transportation Joint Subcommittee – Michael Buckner, Esq.**

Dr. Rosenbaum advised that he would defer to Mr. Buckner to provide the update of the joint meeting and the item was tabled until the next full CRC meeting due to Mr. Buckner’s absence.

##### **2. Health and Social Services – Mr. Wil Trower**

Mr. Tower advised that the Health and Social Services subcommittee has two items pending for consideration, which were provided in last month’s package. He added that one of them will be the *CRC Resolution to Create Section 11.07 of the Charter to be titled “Broward County Housing Council;”* providing for membership terms and the processes involved in that.

Mr. Trower advised that in that same section of the binder there is a recommendation that requests the full CRC to approve a *Resolution directly to the Broward County Board of Commissioners asking them to continue supporting “Children Services” as a priority in Broward County.*

The Chair asked if the HSSC plans to meet again and if the HSSC is prepared to discuss the subcommittee’s recommendations in detail.

Mr. Trower replied no to both questions.

The Chair asked if there were any questions or comments from the Commission; there being none she gave Mr. Weiss the floor for a Land Use update.

##### **3. Land Use – Richard Jay Weiss, Esq.**

Mr. Weiss advised that the LUSC has two (2) proposed resolutions. One deals with a *proposed amendment to the Citizen’s Bill of Rights dealing with the environment*, which has been passed out of the LUSC. The second proposed resolution, which Mr. Weiss explained is a substantial piece of

proposed legislation dealing with the *Protection of the Parks*. He explained that the subcommittee is not yet done vetting the language of the resolution as they are trying to reach out to people who might have an interest in the issue, as it is a very substantial change than what is currently being authorized. Therefore, Mr. Weiss stated that the LUSC needs to be very careful and try to touch as many stakeholders as possible before passing the proposal from the subcommittee to the full CRC for consideration.

Ms. West stated that the latest draft of the Parks Resolution is in the Commission folders and should replace what is in the CRC working binder.

**Mr. Goren:** Madam Chair it may not be the final, final from the last meeting however.

Ms. West explained that the update is from the last meeting and different from what is in the CRC working binders. She urged the Commission to replace what is in their binders with the one provided by staff. She explained that it now lists the parks; which is very important for people to see what parks are identified as natural, regional and neighborhood parks that are involved with annexation issues. She explained that even though it is not the final draft it might be good for the full CRC to review the resolution. Ms. West added that staff is attempting to reach many people for feedback for what it is that the LUSC is proposing.

Ms. West asked Mr. Weiss to provide the Commission with more information on what the LUSC is proposing to do.

Mr. Weiss stated that in general the proposed resolution creates two categories of parks, Natural Area and Regional Parks and basically restricts the County Commission's ability to use those parks in ways that are 'not parking'. He explained that the resolution would be more restrictive when it comes to Natural Area Parks and a little more lenient with respect to Regional Parks and requiring votes of the electorate to really change the uses of the parks. Mr. Weiss explained that previously that power lied at the County Commission and there was feeling that with the additional pressure from developers and less and less land in Broward County that more should be done to protect the parks.

Mr. Weiss explained that the LUSC is getting poor turnout at their meetings. He explained that he has now spoken with both the Sun Sentinel and the Herald advising of what the LUSC is trying to do in an effort to get people who may be affected by the proposed resolution to come to the meetings. He explained that the LUSC is really looking for input but is not receiving it.

Mr. Weiss informed the Commission that the next LUSC meeting is scheduled for Friday, November 2nd at 8:30 a.m. and he encouraged everyone to attend.

The Chair referred to *Exhibit A, Article VIII, in Section 8.13* of the draft Resolution; where it talks about Natural Area Parks being “*hereby designated as Natural Area Parks.*” She questioned the status of the affect on parks such as Pine Island Ridge Park, which is located in the middle of Pine Island Ridge Condominium Complex. She referred to the School System’s talks about buying a lake in Bonaventure to build a school and the deed issue related to this. She also referred to Woodmont and its park being inside the residential community and the homeowners associations that have some responsibility.

The Chair stated that when she looks at the Regional Park list, some of them are recreational parks. She pointed out that Miramar Pineland is a passive park; but the rest have a lot of recreation going on in them.

Mr. Weiss responded with information regarding what’s in the draft in terms of the Regional Parks. He explained that the usages are for outdoor leisure, athletic or recreational activity. So that all the things that are currently being done in those parks are fine. Mr. Weiss stated that the idea was the use of the regional parks which are less pristine, would continue to be used for the defined park purposes. He explained that with respect to the other parks, he is not familiar with individual parks mentioned by the Chair. However, he explained that what is provided came directly from the Parks Department and the LUSC is obligated to believe that they are basically pristine areas. Mr. Weiss suggested that anyone with questions with regard of maintenance or access to the parks should contact Mr. Harbin.

The Chair expressed concern with the inability to change parks (Woodmont and Pine Island Ridge) that are located in the middle of a neighborhood. She advised that you could never change them.

Mr. Weiss, Ms. West, and Mr. Goren all responded that this would take a vote of the electorate.

Mr. Weiss advised that the direction of the subcommittee is to make it very difficult to change the uses of parks. He stated that he thinks the parks mentioned by the Chair are perhaps perfect parks that need to be especially protected because they are so amenable to being incorporated into a development for some other use.

The Chair stated as long as the County is budgeting to maintain the parks, as this has always been her issue. She stated that if the County is not going to allocate the proper funding for them to be at the pristine level that they need to be at, then she is concerned that there might be no out.

Ms. Tanner asked if every park in Broward County is identified.

Mr. Weiss replied yes. He advised that the LUSC has been told that the list provided identifies all of the County-owned parks.

**Mr. Goren:** Madam Chair if I may, for the benefit of the full Board. This list has increased over the past number of days because of the fact that we added all the information. Working not just with the Parks Department with Bob Harbin, but also with the County Attorney's Office and others providing data as to park ownership by Broward County and as you've noted in the proposal, we've defined lands as County-owned property and then subdivided them with regard to Natural Area Parks and Regional Parks and have certain requirements to be imposed upon each. So this list is – we believe at this point, truly exhaustive and comprehensive and as far as we can tell, *is* the final analysis of what is out there.

The Chair asked if there were any questions or comments.

Ms. West informed Mr. Weiss that Commissioner Jacobs is scheduled to appear at the next LUSC meeting to discuss the issue. She stated that Commissioner Jacobs wished to discuss the issue with County Staff to be sure that she was clear on what the proposed resolution means going forward.

Ms. Rogers asked Mr. Weiss if he mentioned that the LUSC intended to include in the resolution in addition to the County-owned parks, parks that were secured with Bond dollars.

Mr. Weiss replied that he did not mention that, but advised that currently when the County purchases land using Bond dollars that there are certain legally restrictive covenants on those parks. He explained that those legal covenants could currently be released by just a majority vote of the County Commission. He explained that what has been included in the proposed Charter Amendment is the fact that those parks will not be allowed to be released *except by unanimous vote of the County Commission* making it more difficult to release those restrictions.

Mr. Weiss reminded the Commission that the LUSC is not done with its work.

The Chair recognized Dr. Lieberman for the PSSC Update.

#### **4. Public Safety – Dr. Mark Lieberman**

Dr. Lieberman referred the Commission to the PSSC proposed resolutions located behind Tab 4 of the Commission binders.

Dr. Lieberman advised that the PSSC has voted to recommend to the Commission certain changes in amendment to Charter Section 5.02 (Public Safety), which he listed as follows:

- Renaming the Broward County Fire Rescue Council to be called the *Broward County Public Safety Council (BCPSC)*
- The BCPSC membership would increase from 9 members to 13 members
- Membership changes as proposed in the resolution, which he suggested the Commission members to review.
- Increased Council responsibilities to facilitate coordination of county and municipal law enforcement, communications (which was the original focus of the amendment with the addition of law enforcement).
- Looking to increase the Council's responsibility to include other public safety matters at the direction of the County Commission
- Recommendation to the County Commission that minimum standards be looked into for Fire Protection and Emergency Medical Services.

Dr. Lieberman explained that the CRC would not decide what the minimum standards are. However it would be a task of the new BCPSC to decide what the minimum standards would be if they go forward in recommending minimum standards. They may not recommend minimum standards but they are being asked to look into that.

- County Ordinance on minimum standards if adopted would prevail over conflicting municipal ordinances.

The Chair advised that these are fighting words.

Dr. Lieberman advised that this is where the Public Safety subcommittee stands currently and deferred any questions specific to the resolutions to Special Counsel – Mel Wilson, Esq.

The Chair asked for clarification of Dr. Lieberman's comment regarding municipal ordinances.

Dr. Lieberman explained that if the County Commission would ask for a resolution for minimum standards that there is an ordinance which would be a part thereof which would prevail of conflicting municipal ordinances. He then deferred to Mr. Wilson.

The Chair stated that maybe Mr. Wilson could talk about *home rule*.

**Mel Wilson:** There was a lot of discussion regarding minimum standards and I think it was probably the most debated issue by the subcommittee to the extent that the last vote ended in a tie to not have minimum standards included. But in any event, just one clarification; the current language provides that the Public Safety Council if adopted and approved by the voters, they would act in an advisory capacity – they would recommend minimum standards in the area of Fire Protection and EMS to the County Commission. It would be up to the County Commission, at that point should they decide to pass an ordinance in this area. Now in doing so – if you look at Article 11 of the existing Charter, which deals with issues regarding municipal and county ordinances when they are in conflict. That article to some extent clarifies that when there is a conflict and a municipality advances the argument of home rule, that article clarifies at least in certain areas where a County ordinance would prevail. We have simply suggested that if this Commission and the subcommittee should go forward in recommending the resolution to the voters in this area; in anticipation that there would probably be some conflicts that occur that, they should also include in Article 11 that a County ordinance would prevail over a municipal ordinance to address any apparent conflicts. Now that specific provision did not make it out of the subcommittee and it may very well be addressed at our next meeting.

The Chair commented that what is actually being said is that if the County so chooses they can push on the cities an unfunded mandate of minimum standards.

Ms. Kaletta stated that she thinks some of the problems that we have had not only in the Country, but in the County and all kinds of situations are the “parochialism that happens that keeps us from looking at what is the best for the general public.” She stated that it is her understanding that as the CRC members are present to look to see what is best for the people of *all* Broward County not individual municipalities. Therefore, she suggested looking at the matter in terms of what is best for everyone, not what’s best and protective of our own communities. Ms. Kaletta went on to explain that she understands that there are issues with finances and other things but suggested the CRC look at the big picture, not the little one.

Mr. Weiss advised that he is absolutely opposed to the County imposing any minimum standards on the cities. He stated that it is partially financial but mainly has to do with the fact that cities have their own Fire and Public Safety Departments, taxpayers select those people and they should be able to decide what level of service there should be. Mr. Weiss stated that he thinks it is wrong, and there are only 2 areas in the Charter where the County has the ability to impose things on municipalities; one dealing

with the environment and the other with land use and he is not in favor of expanding that at all as it is a matter of home rule.

Dr. Lieberman reminded the Commission that the voters have to vote to pass the proposed resolution. He stated that it would be just a recommendation and when it comes to issues of the environment and land use he believes the **health of the citizens** of Broward County is equally as important. Dr. Lieberman stated that he would like to believe that wherever we travel throughout the County that we're treated the same. He stated that he also believes that whatever minimum standards they come up with is probably not far off from where they are right now; as he does not believe it will be a big financial burden on the City and if it impacts one or two cities "it's probably for the better". He explained that he understands the issue and the problem and the PSSC will look at that part of it because they do want to pass it and not get killed by that one part of it but he advised that he wished to hear other Commission member opinions to see where we are.

Ms. Good advised that she agrees with comments made by Mr. Weiss and understands what the Committee is doing. But, she advised that once again it comes back to the issue of funding. She stated that although the CRC is looking at the greater public good and how the residents are serviced and ensures that one city communicates with the other and anything which can be done to improve communications with each other to ensure that the health and welfare of our residents is in the best interest but she advised that it is an imposed mandate and the CRC should keep in mind how those mandates are to be funded as she has a concern about imposing that on the municipalities.

The Chair advised that CRC of what happened during debate over Article 5 during the last Charter Review Commission. She stated that to her the issue is one government telling another government that they know better. The Chair stated that the issue to her is that the Charter says "*the County shall provide funding for the Communications and Infrastructure*" and if the County would get this system complete and continue its role of providing funding; the issue no longer becomes minimum standards.

Ms. Eisinger advised that she sits on the PSSC and as an elected official, she advised that she certainly understands the importance of home rule. She stated that there is definitely a concern and a lot of the input during the drafting of the proposal came from Public Safety professionals in looking at the composition of the Public Safety Advisory Board; there is representation from all of the municipalities throughout Broward County. She stated that she is uncomfortable with the notion of a vote by the County Commission but explained that she believes that the health, welfare and safety of residents has to prevail over parochialism as Ms. Kaletta stated and home rule. Therefore, she advised that she believes there has to be some "*teeth*" to a Public Safety Council. She stated that she does not know if

the wording sits well with the elected officials but she believes it is important that there is some consistency. Ms. Eisinger advised that the bottom line is you need to have a certain number of people on that rescue vehicle. She stated that she agrees with the Public Safety Officials who came before the Public Safety subcommittee that there has to be some ability to take action in setting levels of standards.

Ms. Kaletta stated that in listening to the safety professionals who spoke with the Public Safety subcommittee, it is not consistent across the County. She advised that there are cities that really do minimum and that is obvious. She explained that what the PSSC felt in all of the discussions and input is that the proposed BCPSC would have the ability because it is made up of a variety of people with various levels of expertise. She pointed out that none of the Mayors or Commissioners on the CRC have that expertise. Therefore, she stated that the PSSC felt that if the BCPSC came together they would make recommendations. They would not have the authority to make the changes. Ms. Kaletta stated that she thinks it is unfair to not give the public of Broward County the opportunity to have a choice.

Mr. Esack advised that the PSSC had the Public Safety professionals present regarding standardized dispatch or the NFPA 17.10 National Standards. He asked Dr. Lieberman if he recalled if it was mentioned how many of the 31 municipalities were out of compliance.

Dr. Lieberman responded that from the National Standards presented; it was not broken down as to which were or weren't compliant. The general gestalt was that most are at that level. Dr. Lieberman explained that no minimum standard level is being recommended; but the recommendation is that the Council looks to see what they believe should be minimum standards in Broward County. He reminded everyone that the voters must vote on it and the BCPSC would have to look into it and they may feel that we don't need minimum standards in Broward County; but the PSSC would like them to look into it and if the County Commission passes it; the PSSC would like it to have some teeth so that the citizens of Broward County have equal health services.

Ms. Norris-Weeks advised that she agrees with Ms. Eisinger and wanting to look at the whole County. She stated that she would be interested in seeing what the notes were that involved the creation of the Broward County Fire Rescue Council. She advised that it was probably formulated because of coordination and to encourage those kinds of efforts to make sure everybody was operating at the same level. She advised that she has been dealing a lot with Fire Rescue contract negotiations and she stated that a big concern for many of the public safety professionals on the street and dealing with vehicles going out, the level of care that they want to have, and public safety issues in terms of their safety when they go out and take calls. She stated it is really a serious issue to them. Ms. Norris-

Weeks stated that she does not know how to get around home rule authority; but when talking about regional issues and where the County is headed in terms of looking at regional issues as the CRC goes forward this certainly seems like one of those things that would be at the top of the list of things that would be easy to control and would warrant that kind of control and uniformity that it demands.

Ms. Rogers referred to the proposed resolution and the communications component. She stated that it seems to focus on communications among municipalities but not communications wherein the residents will know what is going on also. She stated that she sees municipalities with their own radio stations and if talking about a regional approach; communication covers more than just her first responders being able to communicate; but to know what is going on throughout the 31 municipalities.

Ms. Rogers stated as it relates to home rule as she will always wear her public official's hat; but she stated when it comes to public safety and recognizing that we are truly transient in going from one location to the next; we are looking for at least a certain level of service regardless of where you are in Broward County. Ms. Rogers stated that sometimes that hat needs to be worn when the CRC is in session as a Broward County convened body; as the members are asked to look at things County-wide. She explained that she can wear her City Commission hat but she also needs to step aside and think that when she drives through whichever municipality, she knows there is mutual aid; and can be comfortable in knowing that a level of service will be provided to keep her safe.

Ms. Eisinger stated that she recognizes that we are 31 cities and have a responsibility of providing services to residents with the tax dollars the cities have. She stated ideally it should probably be a regional system. Ms. Eisinger provided an example stating that she lives in Cooper City with residents of Davie who reside closer to Cooper City's Fire Rescue Station than any Cooper City resident. She stated however that because they are Davie, the 911 call goes to a Davie Station even though they could almost pull the fire hose from the Cooper City Fire Rescue Station. Ms. Eisinger explained that because of parochialism, territorialism, and financial issues to be considered, they are separate. She stated that looking at the Public Safety Council; it is not coming from the County Commission but from the composition of the Public Safety Council that would make any recommendations on communication and levels of service.

Mayor Eisinger read the list of the proposed composition of the Public Safety Council and advised that it looks in our "*own back yards*" for the members of the Council who will be making the decisions in the best interest of all the residents of Broward County. Ms. Eisinger stated that she is not sure if the list of appointees needs to be modified to some degree; but she thinks it is important to have a Broward

County Public Safety Council watching out for the health, welfare, and safety of all the residents of Broward County.

Mr. Benson started by saying that he too is an elected official. He advised that the intent as he views it is to try to look at what process or what system is best to provide health and safety services to the residents of the municipalities specifically and to the residents of Broward County generically. He suggested that the CRC should realize that the bottom line is the delivery of a given service at the time the need is there.

Mr. Benson advised that at the last PSSC meeting Ms. Kaletta posed a very interesting question. He explained that she asked if she is driving in the City of West Park and got into an accident, could she expect to get the same level of service in West Park juxtaposed to some other municipality in Broward County – assuming it is one of the municipalities with the top of the line deliverables to helping people in accidents. Mr. Benson explained that when you ask that kind of question and put yourself in that situation he wonders if you will worry about if you are in the municipality of West Park, Lauderdale, Fort Lauderdale or Coral Springs. He explained that the bottom line is **“I want somebody to save my life and if I want you to save my life, I could care less as to who is bringing that service to me, I want good service and I want to live.”** Mr. Benson suggested that Commission members think about the proposal in terms of putting themselves in the situation forgetting about the political ramifications of what that is all about.

Ms. Kaletta stated that the proposed resolution is not just talking about fire and medical issues; but it also includes disasters such as hurricanes, which come through, and terrorist attacks. Ms. Kaletta suggested the CRC look at the total big picture of what it can help facilitate when emergencies occur.

The Chair asked if the Broward Health System offers the same exact services that the South Broward Hospital District offers. She asked if every Hospital in the district offers the exact amount of equipment, if she was to go to Broward General or Memorial Regional Hospital.

Mr. Trower replied yes, he added that Hollywood Memorial may have more ventilators than Broward General. He added that it is basically an issue of what the Community requires in that particular area. He advised that Hollywood Memorial does pediatric open-heart surgery and Broward General does not. Mr. Trower advised that the number of pediatric open-heart surgeries is so small it does not make sense to duplicate that service. He added that there are State and Federal standards and there are professional standards for operation of various parts of the hospital system and those are all met. He

advised that the discussion is regarding minimum standards not necessarily to bring everyone up to the highest standard in the community.

The Chair advised that she is concerned that what is being said and what a person believes might be two different things. She advised that there are County-wide services, and there are hospitals that you go to for instance, for trauma. She added that County's role is to provide emergency helicopters. The Chair advised that there are regional services and there are needs for there to be reasonable regional services. There are Hazmat Services, because it is too expensive for every municipality to provide. She advised that it would not make sense that everybody would have one. She stated that when you begin to talk about minimum standards, you might be talking about what the union might believe are minimum standards. The Chair added that if everybody already has to meet the national standards, you cannot be an entity without meeting some type of standard. She added that everyone has to meet the national standards and it is not that the standards are not being met; it is the above minimum standards that people actually might be looking for. She advised that every police and fire contract is negotiated, it is 52% for instance of her city's budget. The Chair provided the committee with an example of circumstances regarding minimum standards where there may be a requirement of four people to a truck and the financial impact that might have on the municipalities.

The Chair advised that she believes that Broward County meets the standards. She then asked if the standards have to be met.

Dr. Lieberman explained that there are State Standards that they meet and there are national standards that are recommended that some communities use. He advised that he does not believe the municipalities are far off. Dr. Lieberman stated that in his personal opinion he does not think that the financial impact of what they might recommend to a community is going to be that great.

The Chair asked Dr. Lieberman if he has ever sat in on a Fire negotiation.

Dr. Lieberman explained that he is talking about the changes that they may recommend for minimum standards. He advised that Chair that he believes she is looking at the *worst case scenario* as she mentioned before 4 firefighters to a truck. He stated that again he is in Coral Springs so that's a little different but he advised that he believes that in most communities such as Plantation where he has previously worked and has familiarity with their firefighters and what they have. He stated that he is sure they meet the minimum standards and if some communities don't meet minimum standards he believes that is a problem. Dr. Lieberman explained that when he sees minimum standards he sees whatever the new Council decides as what minimum standards are. He pointed out that there will be 13

members, someone representing the Mayor of Broward County and whatever they come up with will probably be a good recommendation for minimum standards. He reminded the Commission that it also has to pass the County Commission. Dr. Lieberman again reminded everyone that the people of Broward County voted that the Charter Review Commission take interest in this issue. He advised that if public safety is not as important as land and environment then the committee is not setting precedent as it has already been done.

Dr. Lieberman explained that he really does not believe there will be a huge impact on a lot of cities and the impact it does have on a few cities will probably be minimal. Dr. Lieberman advised that he believes to do nothing is wrong.

Dr. Lieberman stated as far as the hospitals are concerned every hospital has their specialty, and if a hospital cannot deal with a particular specialty there are rescue units to take them to another hospital. He stated that those fire rescue units should have the same minimum standard capabilities when sending the patient to the other hospital.

Ms. Kaletta stated that she cannot imagine why anyone would vote against this issue. She asked if a community is doing well why worry about this issue. Ms. Kaletta advised that she believes that the Commission is putting too much emphasis on "*Minimum Standards.*" She advised that it is not just about minimum standards it is about building community relations with emergency situations whether it is fire, medical issues, or whether it is some kind of disaster that may happen.

Mr. Weiss stated that the only part of the proposed resolution he has trouble with are the minimum standards. He explained that cooperation and communication are excellent as he voted for that the last time. He explained that the 911 system needs to be fixed which was the original purpose of the Fire Rescue Council; the County was supposed to provide for funding for a County-wide Communications System which is what is currently in the Charter and never really happened. Mr. Weiss stated that this is his only concern, as he believes the rest is tremendous.

Mr. Weiss advised that the point he wished to make is why ultimately the County Commission is the one who will be adopting the standards. He asked why is it that the County Commission is more qualified to adopt the standards than elected officials of the municipalities are. He advised that what is being said is that the County Commission is better qualified to make the decisions than the elected officials of the municipalities. He explained that he does not think this is correct.

Mr. Weiss inquired about regionalism he stated that there are certain things that the County should be doing, and there are certain things that the County should not be doing. He advised that within the

subcommittees broad areas have been discussed – Airport, Seaport, Libraries, and Parks; which he states are appropriate regional County responsibilities. He stated that at least in the Governance subcommittee they've been talking about getting the County out of the areas that are really local governmental functions. He explained that this gets right back into local government functions. He stated that the next step will be why shouldn't there be minimum standards for Police.

Mr. Weiss advised that he does not feel that the County Commission is any more qualified to make this decision than the elected officials beneath them. Mr. Weiss stated that he is also very concerned about budgetary issues. He explained that he negotiates labor contracts for a living. He stated that the issues of minimum manning and minimum staffing as Mayor Moseley (the Chair) said are what you negotiate. He advised that there are State standards that Paramedics and EMTs have to qualify for, they have to get regular training and certification, and they can't operate unless they meet minimum standards. Mr. Weiss stated that what is being said now is State standards are not good enough and the County should come in and set their own standard.

Mr. Weiss stated that if the County would fund minimum standards he would change his mind; but he advised that basically imposing another cost on the municipalities that some may not be able to afford. He advised that when you add a third person to a truck it is expensive.

Mr. Weiss then summarized outlined his points:

- The County Commission is in no better position to make the decisions than the elected officials are.
- It is getting away from the regionalism the CRC has been trying to talk about in getting the County back local government.
- The funding, which he does not know where it is coming from.
- Believes that the idea of having a Council to deal with communications is great, but to extend it to what is proposed is he would not support.

Dr. Lieberman advised that the main focus of the Public Safety Council has not changed from communications. He stated that nothing has changed other than to add other things for them to look into. He stated that the County Commission could ask them to look into other issues. Dr. Lieberman reminded the CRC that communications was voted for previously and it is an important issue. He asked how minimum standards are not as important as communications. Dr. Lieberman advised that at a previous meeting a similar resolution was killed. He added that he believes that it is time to go forward.

Mr. Weiss advised that the idea of the Council was to facilitate closest unit response, which is what the Charter says. He added that this is why it was felt that it needed to be coordinated on a County-wide basis. He explained that the specific language in the Charter deals with the County Communication System to deal with closest unit response, which is something that the cities cannot do individually; it needs to be coordinated among the cities.

Mr. Rogow stated that he is in favor of the proposed resolution; he added that he believes that this is much more important than the Airport, Land Use, and Environment. He stated that this issue is kind of a fundamental aspect of the most important County's service – *Saving Lives*. Mr. Rogow advised that he believes that the discussion is pre-mature and people in opposition can go to the County Commission and object if the resolution passes and if there is a recommendation for minimum standards. He explained that at that time the people could go to the County Commission and request that they do not accept the recommendations made by the BCPSC and not impose the standards because they are too hard for their individual cities etc. Mr. Rogow stated that the Commission is just discussing items that don't rise to the level of the CRC's decision making at this moment. He advised that this sets in motion the possibility that there will be the discussion later; but from the CRC purposes they wish to do something that is good for all the people of the County and this would provide an opportunity for that.

Ms. Eisinger advised that as an elected official when she casts her vote to make decisions she listens to the experts in the areas. She added that the input for the concept of minimum level of standards came from a great deal of testimony from Public Safety officials. She advised that she, being sensitive to home rule believe that public safety services really are a regional issue. Ms. Eisinger stated that she agrees with the comments from Ms. Kaletta and Ms. Rogers in terms of being across the street and having an accident and not having the same quality of services because she knows that Miramar being a big city way exceeds the minimal level of services.

Ms. Eisinger advised that being a small city that is primarily residential; Cooper City recognized years ago that they just could not compete with the larger cities if they went regional; therefore they went with the Broward Sheriff's Office and it allowed Cooper City to increase their levels of services within the city to make sure that were providing their residents with the safest possible services. She explained therefore that there are even options for smaller cities and when she does cast her vote it will be based on the testimony from various people in public safety.

Ms. Tanner advised that she likes the proposal and think that should be move forward. She added that she has personal experiences where her mother died in a fire and every year since then things have gotten better and improved and the standards have gotten higher. She suggested that this is what the

CRC should look at what has happened in the past, what can be done to make it better and to ensure the highest quality of services.

Mr. Benson referred to Mr. Weiss' comment mentioning the concept of *closest unit responder*. He added that if in fact he is in that same accident that Ms. Kaletta mentioned and he is in City A and City A's resources are less than City B's resources. Mr. Benson stated that if he is closest to City A and those resources are not as good as that in City B and there is no minimum standard established that would give him the same service if he needs it; he stated that he would want someone to please call City B. Mr. Benson stated that the point is if he is going to go through the Closest Unit Response then it should be ensured that all cities have at least a level of service that everyone can expect if they are in an accident.

The Chair asked Mr. Wilson if two people are what are now considered a minimum standard here in Broward County. She advised that it has nothing to do with negotiations and if you have a Fire Department and you send out a Fire Truck and a Rescue Truck in order to be certified, how many people are on that vehicle. She advised that this is a fundamental question and she'd like to know what the baseline is currently.

Dr. Lieberman advised that the PSSC has had experts look at this question and had different opinions. But he advised that those heard from mostly said two (2) is okay. Dr. Lieberman said when it comes to the BCPSC looking into it, they are going to talk to more experts than the subcommittee spoke to but he believes two (2) may be okay.

The Chair asked who certifies in the State of Florida that you can exist as a Fire Department. Is there a specific number?

**Mr. Wilson:** When we look at this issue a lot of what you find in the State Statute deals with licensing requirements. Let's take for example EMS; they have to meet certain State standards and requirements in order to be licensed. Beyond that, there is something that is called -- if you look at the Broward County Code there is a reference to your Certificate to Operate so even though you have met the State Standards in order to be licensed as an EMS provider; you now have to go to the individual County to get your certificate in order to operate within the area. The statutory scheme that has been set up is the legislative scheme is that the Counties then can take a look at the type of service that you would be required to provide in order to get that certificate.

The Chair stated that this goes back to what she was saying before. She explained that she believes the discussion is not really about minimum standards but it is rather about whether the PSSC believes

the current process to get certification meets that minimum standard. She explained that the PSSC is not talking about the State saying to the County in order to give certification this is the minimum. She advised that the discussion is whether the PSSC believes that that certification is the level that is believed that the residents in Broward County should have. She stated that this is not the same as saying minimum standards and to her they are two different things. She advised that she wishes to know what the “low-ball” number is at the next CRC.

Ms. Kaletta stated that advised that in every home she has lived in, her Homeowners Insurance was directly balanced by the kind of fire services she had. She suggested to add into the equation that if the Commission thinks in terms of increasing the quality of fire services across the County, if it would lower insurance rates to some extent.

Mr. Trower stated that everyone needs to keep in mind that there is a difference between **optimum standards** and **minimum standards**. He stated that in the case that Mr. Benson was mentioning earlier, there may be a community, which has met those minimum standards, has everything, is working fine and everyone approves of it; but they may be adjacent to a community that has higher standards. Mr. Trower stated that he believes this will always exist based upon local conditions, local funding opportunities etc. He stated that this is an issue to be clear about when looking at what the BCPSC is intended to do. He advised that there still may be differences and the only way around that is regionalizing and establishing one set of standards for every community in the County; which may bring some down to mid-point and maybe bring some up. He advised that this is not what he thinks is intended by the proposed resolution; but he thinks that this is perhaps something that people are concerned with. That given some time, once the structure is set up; the program might get into that.

Mr. Trower explained that minimum standards as he understands it are just that **“it’s the minimum you need to have in order to do an effective safe job.”** He advised that it is known that some groups would put more into it than that. Mr. Trower explained that where you happen to have an accident may be adjacent to an area where you can’t get the same staff that you would if you had it on the other side of that community.

Ms. Rogers added that Broward County has changed a Council is being established which would look at Broward County as it is today; decide on what resources are needed; not just manpower but actual equipment and other things that will meet the needs of this changing or changed County. Ms. Rogers advised that what she is hearing being proposed is an Advisory Board who will look at the entire County and make recommendations. She stated that it will still be up to the County Commission as to whether the recommendations are adopted and people will have a chance for input. The Community will have a

place to go to talk and hopefully the elected body will listen. Ms. Rogers explained that she understands home rule, but advised that as she drives through the County there should be a certain level of service and expectation. She stated that the proposed resolution is what she believes the voters are asking for. She advised that they don't know the difference so they are counting on the entire CRC to put the infrastructure in place where dialogue can take place and informed decisions can be made. She then suggested moving on.

***[The Chair adjourned the meeting for a 40 minute lunch break at 11:40 a.m.]***

#### **5. Transportation – Michael Buckner, Esq.**

No update provided.

***[The Chair reconvened the meeting at 12:32 p.m.]***

The Chair asked Mr. Goren if she could call for public participation on the five (5) issues discussed prior to the lunch break.

Ms. Norris-Weeks confirmed that participation would also be allowed on issues pending discussion.

The Chair replied that there would be. She explained the plan of approach with regard to past and future discussions, which will first include discussion by the Commission, public comment then voting.

The Chair also advised the Commission that Commissioner Gunzburger has requested to address them.

The Chair called for public comments on the subcommittee reports. There being no public comment.

**Mr. Goren:** Madam Chair if I can just briefly, it may be helpful if as you proceed to the substance of the afternoon. As documents are being sent to members of this group from time to time by both Pat West, by myself, by others from my office and her office; please bear in mind several important factors we've talked about from the very beginning. Those of you who are elected public officials know this. This will be a quite primer from you in the context of public records and Sunshine. But anything and everything that's exchanged between you and staff or me are essentially public records. There's no exemption in the context of being able to keep privileged or confidential, that which is exchanged. Our memoranda, our emails things of that type which are exchanged on a periodic basis; they are public record documents, and the media and third parties have absolute, unequivocal rights to access those documents. There are no exemptions to my knowledge that otherwise preclude that access. So I suggest to you that in the context of emails in particular which I've seen in recent days, and I say

innocently because it happens on a periodic basis. Your intercommunications by email, which I know has not truly happened; because I've not seen it happen. But I've seen the potential for it occurring unintentionally. The objective is that your communication needs to be conditioned in this room; or in a public setting that you current have, where a tape machine is going, or we have appropriate staff that is keeping minutes. Where the public has a right to access what you are saying, what you are thinking, what you are doing and what could transpire from that exchange. This is not a negative confrontation from me to you. It is just simply and acknowledgement that we live in a public records world in the State of Florida and the Sunshine Law does apply to this group, and to the extent that things are beginning to accelerate in the context of production of data, documents, backup, and evaluations of other matters; I just want to caution you as a caution light, to recognize that what you are doing is being reviewed by others. Either intentionally or not, it's available for inspection and review. So I say that just to keep you on the same place where you've been since you began and to make sure that if you have any questions you can ask me today, tomorrow or anytime you'd like. Just to make sure that you are acting consistent with those statutes.

The Chair asked Mr. Goren to update the CRC on the Code of Ethics opinion handed by the Attorney General.

**Mr. Goren:** The item related to a recent Attorney General's opinion that was issued in Fort Lauderdale governing the Code of Ethics. Which we think was something that you should see and acknowledge in the context of the Attorney General's analysis of that particular inquiry from the City of Fort Lauderdale.

***[Mr. Maus arrived at this time – 12:30 p.m.]***

The Chair asked Mr. Goren to provide a brief overview of the opinions provided relating to *Non-interference* and *Code of Ethics*.

**Mr. Goren:** Two items that are in the backup; the Board had inquired whether or not the County Commission has ever adopted a Non-interference Ordinance. The answer was yes they have and it's conditioned in **Section 1-22 of the County Code of Ordinances**. The direction however of the subcommittee has been, and has directed us in that regard to review that document as drafted; but to prepare our own for the subcommittee for their own review and consideration and ultimately by the full Board; to transition not just an issue in the code but into the Charter as a permanent "statement" as it were, of non-interference. Ratcheting up so-to-speak the obligation; recognizing that ordinances can be changed in two (2) readings. You can have two (2) readings and essentially change an ordinance if you're a public body. To change your Charter requires far more. You have been meeting for months on

issues such as Charter access and ballot access. So from that perspective my direction from the subcommittee Chair has been to review the County Ordinance provision, but to also provide their own source of information, which is in the backup and to just simply recognize the fact that the intent has been of the subcommittee as a potential recommendation to the full Board that the item be put into the Charter as an item of permanency. As opposed to something that could be changed during any number of County Commission meetings. There are differences which I know the Chair would want to talk about after Dr. Rosenbaum has some commentary on how they may differ slightly when that point comes up this afternoon.

Secondly, there was an Attorney General's opinion issued at the end of September by Bill McCollum on a request that was filed by the City of Fort Lauderdale with regard to whether or not local government, which includes Counties, by the way, could in fact adopt an ethics code that could hypothetically be more stringent than State Statute and the answer was *yes, with some conditions*. So long as the municipal purpose and County purpose is served by the preparation, as well as the fact that the violations as it were are also still recognized under Chapter 112 as the 112 violations are filed. But there is authority given in the AG's opinion that you can actually do more, you can be more stringent or stricter than the State Statute specifically. In that regard, they're asking questions about gift giving and other conditions that were then being requested of Bill McCollum's office. That's set forth in **AG's Opinion 2007-39** which in fact looks at the State Constitution, looks at Chapter 112 and essentially suggests that adopting such an ordinance is in fact legally doable and I think the County Commission is moving in that direction, if not already or has adopted the regulations. If not, that's part of what the Charter Review Commission is studying in that regard and we'll certainly look at it further. But now there's additional authority being given by the Attorney General's office on that topic specifically.

The Chair recognized Dr. Rosenbaum.

**V. Dr. Irv Rosenbaum, Continuation of Presentation by CRC Administrative Issues / Governance Subcommittee – Recommendations to the CRC Regarding**

**1. “Non-Interference in County Administration” (2008-002)**

Dr. Rosenbaum reminded the Commission of the presentation provided during the last meeting. He advised non-interference provisions are very common in municipalities and counties. He advised that the AGSC is proposing the provision be added to the Charter. Dr. Rosenbaum advised that there is presently language in the County Code of Ordinances; however this language can be changed by the

County Commission. He advised that the proposed resolution is a little different than the version within the County Code and it adds the Non-interference clause into the Charter by the voters of the County.

Dr. Rosenbaum asked Mr. Goren if there is anything specific that needs to be added.

**Mr. Goren:** No. The provisions of 2008-002 which is in the back-up, reflects the subcommittee's recommendation or at least their discussion prior to formal recommendation to the full Board and is consistent with Chapter 112, just for reference in the context that it now in addition to embracing the State Statute, also provides for an enforcement provision which provides as you saw in proposed *subsection 2.16* for potential reprimand to a County Commissioner who fails to comply with the requirement. The Non-interference section however, is more stringent as I recall or we actually have some more direct language in that document specifically.

Dr. Rosenbaum advised that the Code is commonly seen. He advised that he believes it is very specific, to the point and allows the Chief Administrator of the County to do their job without interference from the Commissioners.

**[Ms. Good entered at this time – 12:42 p.m.]**

Ms. Norris-Weeks requested an explanation of the proposed language *Exhibit A, Article II, Section 2.07* "Except for purposes of inquiries and investigations..."

**Mr. Goren:** It was discussed because there may be reference points, for example where the County Commission may be conducting a formal investigation which may require reference and contact with staff in the context of subpoenas or other processes and procedures that would bypass this provision. That essentially was contemplated by the language.

Ms. Norris-Weeks suggested the addition of the word "formal" before investigations in that paragraph.

**Mr. Goren:** Sure.

Ms. Norris-Weeks asked what kind of inquiries would be envisioned.

**Mr. Goren:** I think they were basically the same. Inquires and investigations more on a formal basis, where the County Commission would be serving a particular role or function under the Charter or by State Statute conducting a review of some sort that would be somewhat of a bypass to this provision where there would have to be, for example a point of inquiry of a County employee. But, we can play with the language some. But, the intent was to be consistent with the opinion of the subcommittee.

Mr. Rogow asked why the language is being proposed. He asked if the proposed resolution is “some slap” at the County Commission that would now be put into the Constitution of the County; where there’s an ordinance that pretty much accomplishes the same thing. He advised that he understands the desire to formalize good government. But he asked if the proposal is basically *distrust* of government. Mr. Rogow stated that he does not think that the Charter should be amended to reflect the proposed language, nor violations that constitute grounds for reprimand. He added that he is happy with County Ordinance 1-22.

**Mr. Goren:** Just for clarity sake. The memorandum which is dated October 22 makes direct reference to Section 1-22. That’s in the County Code today. What’s in your notebook is proposed 2.07. So when you are suggesting changes, you’re looking at what you’ve proposed in the subcommittee, not the County Code section. For example, the comment arose earlier in reference to “*except for purposes of inquires and investigations.*” That’s in the current proposal, not in the current Code.

Dr. Rosenbaum responded to Mr. Rogow’s comments advising the Commission that the proposed language was not crafted in the mood of distrusting the County Commission. He advised that it was crafted in the mood of being a common thing that is found in many municipal Charters. He stated that you find Non-interference Clauses because the Chief Administrator needs leeway to conduct their job while still being held accountable to the County Commission.

Mr. Rogow ensured that everyone was looking at both documents for the discussion.

**Mr. Goren:** Referring to memorandum 2007-020 – For the record that takes exactly what is in the current County Code and places it in the memorandum.

Mr. Benson asked Dr. Rosenbaum who would bring the charge of interference, and if it is restrictive to the County Administrator to bring the charge, what would it do to the relationship between the County Administrator and the County Commission.

Dr. Rosenbaum responded that the relationship only comes about if there is a violation. He advised that he thinks just having something like this in place, historically; looking at other jurisdictions and not looking at Broward County, has prevented that from happening and has prevented the day-to-day interference. He advised that it is very difficult to run an operation; particularly a government operation when you sometimes have elected officials coming to a public worksite directing the employees around.

Dr. Rosenbaum explained that this is what the proposed resolution is meant to do. It’s not meant to strain the relationship; it’s not meant to say there is an existing problem nor is it meant to convey

anything negative about the County Commission. He stated that he believes that it is meant bring forth some rules such as “you have the right to make inquiries, you have the right to conduct investigations, and you have the right to ask questions.” But, someone has to direct the employees without the employees getting direction from other sources.

Dr. Rosenbaum reminded everyone that it is in the Code of Ordinance now.

Ms. Good stated that as a member of the AGSC subcommittee she does not recall that everything had to go through the County Administrator. She stated that if an employee felt that they were interfered with, that it would be upon that employee.

**Mr. Goren:** It is silent on that issue, because the direction of the proposed *Section 2.07 and 2.16* relate to the elected public official. It is not an issue about the County Administrator or County employees, it is the Commission as a collegial body that individually as a collegial body are being requested or required not to interfere.

Dr. Rosenbaum confirmed that the employee would not have to go through the County Administrator; however confirmed that it was never discussed.

Mr. Benson asked what would happen if there is interference.

Ms. Eisinger responded that anyone could file an ethics complaint.

**Mr. Goren:** The aggrieved employee has the independent right under the provision, which is very global; to file a complaint with the Chair of the County Commission, Mayor of the County Commission or the County Commission as a whole. Charter language cannot provide for every individual item. I think that the intent of the subcommittee was to provide a global opportunity. But if it was an aggrieved employee who was put upon; then it might not be a Chapter 112 violation, but it could be a violation of the Charter interference. That was the issue of allowing that to occur if there were such an allegation, which the Commission would have to review on its own.

Mr. Ketcham asked how long Section 1-22 has been in force.

**Mr. Goren:** We checked; we reviewed; there’s a one-liner in the Charter right now that says that there shall be a Non-interference Ordinance period; which is what you view here.

**Commissioner Gunzburger:** The last time-during the previous Charter Review.

**Mr. Goren:** Right, the last time, about 6 years ago, it is fairly new.

Ms. Tanner requested a simple comparison between the old and the new language.

**Mr. Goren:** They are slightly different. We were directed essentially to start from scratch. To survey other cities, other counties, other areas that had appropriate language and we did that. So we actually put that to the side when drafting the proposal for the subcommittee. One legal option, not that it's correct or not correct is if that were legally correct, it would be. You could technically speaking, take the County Code section and ratchet it up to a Charter Amendment.

Ms. Rogers questioned if there is a Civil Service Board of Broward County.

**Commissioner Gunzburger:** There is no Civil Service Board of the County. I was thinking; even though I wasn't asked, but I was sitting here listening to your questions and it was going through my head and I may be right, I may be wrong. But I think if you take it to the County Administrator or to the Commission. It's awfully difficult to deal with this and it should be probably referred to Human Resources (HR) and then HR may decide to refer it to a Special Master. To me that would make a lot more sense. Because although there's supposed to be non-interference, *there is interference* and it never bubbles to the surface. I'm sure everyone who's involved with any city government knows of instances where there has been interference. You don't read about it. You don't hear about it because the employee really is at a disadvantage if they complain. There has to be mechanism if there is a complaint that would protect a whistle-blower so that they don't lose their job.

Ms. Rogers suggested not going back to a Department controlled by the County. She advised that she assumed the County had an independent Board for staff to go to. She suggested that this would be a start.

Ms. West advised that the County does have an office of Professional Standards that staff can go to if there is a problem. She advised that they conduct the investigations and report back to the County Administrator and the County Commission.

Commissioner Gunzburger: The one that this was really meant for was the County Administrator. Certain people may hypothetically, "gee Lori, you're the County Administrator, I want you to hire Irv Rosenbaum in this capacity, and if you don't I'm going to make life..." I don't have to say anything, I'm one of the County Commissioners that really make a difference, you know darn well that if you don't hire Irv you are going to be on my list and isn't a good list and I will never let you forget and we all saw what happened yesterday; end of story.

The Chair advised that when the subject originally came up it was about undue influence. It was not about protecting an employee; it was protecting undue influence. She advised that every City she knows of has one and she technically is not allowed to go over the City Manager's head and instruct an employee to do something, which would be contrary to what their boss had already told them to do. The Chair advised that what was found when speaking with Norm Ostrau is that it is very common to have this as it is standard operating procedures to have one, particularly in a County the size of Broward.

Mr. Rogow asked what if it is placed on the ballot and people vote it down. He stated that his philosophy is to be very delicate in terms of putting Charter Amendments on the ballot and he does not think this one is necessary. Mr. Rogow stated in terms of the whistle-blower statute if someone were fired because of a complaint, there would be a lawsuit under that statute.

**Mr. Goren:** There is nothing in this proposal, or in the County Code that would preclude that.

Ms. Good advised that she disagreed with Mr. Rogow, as the ordinance and the proposed resolution are not the same. Ms. Good stated that the ordinance just says "we're all going to be play nice". She stated what she thinks the subcommittee tried to do is to provide more teeth with a Charter Amendment to allow an employee to have an avenue, in case they're interfered with and also provide a penalty to these actions. Ms. Good pointed out that the ordinance is totally silent to the ramification of interfering.

Ms. Good stated that she thinks the Amendment speaks to the fact that if an employee is interfered with in some fashion that they have an avenue and there is a penalty to that Commissioner for interfering with that employee. She stated that hopefully this will not happen but realistically speaking, if it is not happening now, it may happen in the future. Ms. Good advised that the AGSC wanted to provide those avenues. She added that this it was felt that this is something important that really should be in the Charter and not merely just an ordinance that's in the books, that has no teeth.

Mr. Weiss advised that this would be sort of setting standards. He advised that the concept that this is not important enough to put into the Charter. He explained that the County Commission could pass an ordinance tomorrow saying that non-interference is prohibited and everybody should interfere. Mr. Weiss stated by putting non-interference into the Charter sets a standard. He stated that he knows that in cities where they have these ordinances, people refer to them in debates to make a point. He explained that he thinks the fact that it is in the Charter sets a higher standard and might dissuade people from interfering. Mr. Weiss stated honestly that he thinks the remedy is less important to him because he is not sure that it will actually be used.

Ms. Norris-Weeks stated that certainly whatever is in place right now can be repealed. She stated on another issue, that in looking at the Ethics provision currently in the Charter; she does not think that what has happened as a result of that provision was the intent. Ms. Norris-Weeks stated however that the non-interference provision being proposed is very clear.

Ms. Davidson asked how the issue was brought to the CRC to be considered.

The Chair advised that the issue was brought forward via Public Hearing and during the CRC's facilitative session more than a year and a half ago.

Ms. Norris-Weeks advised Mr. Ostrau was also working for a number of years for the County and as Chairman of the State Ethics Commission.

**Mr. Goren:** The provision that the subcommittee recommends does not preclude an independent filing or complaint under Chapter 112; the State Ethics Code. So if a County Commissioner is in violation of Chapter 112. That is the sole venue available for filing a complaint with the Ethics Commission. In fact the language here says that, it specifically authorizes that to occur. This is really a self-policing event; which is the County Commission, having to drive itself by its own rules, if a member has violated one of its own Charter provisions. That was the intent of the subcommittee, to heighten the awareness of it. Make it a significant item in the Charter having greater permanency and providing a venue for complaints to be heard in a quorum that would allow self-policing by the Commission. They could suggest not taking any action, but there certainly is a venue that would allow it to be discussed.

The Chair called for any public comments on Non-interference in County Administration.

**Mr. Russell Rand**

My name is Russell Rand, I wasn't sure how to speak on a lot of issues that you've been trying to deal with and I've been trying to deal with too whether interference or non-interference or recusals or ethics. You really hope that somebody interferes with something for beneficial purposes and not for malicious purposes. The intent I think of the ordinance or whatever is that there wouldn't be interference for malicious purposes. You really hope somebody interferes somewhere for beneficial purposes and I know from my own experience, having worked for the County 29 years that a lot of these processes that you're mentioning here, just don't work. It just doesn't go anywhere. The rubber doesn't meet the road and as far as whistle-blower protection there is no such real thing in the real world. The internal mechanisms don't work, they can't find any wrong doing in the County itself and you can't do anything about it. You can't fight City Hall and you can't fight County Hall. You don't have enough resources to

do anything. It just doesn't quite work. You hope somebody would interfere for beneficial purposes. I've tried. I'm caught in a terrible situation with the County that led to my termination after 29 years. I worked in the environmental laboratory. I'm contaminated 31 years. I had to sweep the asbestos dust or be fired. No protection. You talk about public safety. These are the original memos. They're 26 years old, they're yellow. They refer to an event 5 years earlier and I was going to be fired or deal with environmental quality control.

The Chair asked Mr. Rand if he is for or against the Non-interference Clause or any issues on the topic.

**Mr. Rand:** Well again, it's many and various issues on this, it's hard to really focus to it. I spoke at the last Charter Review and said several of the same kinds of things. So if we can't step forward and talk to you about retaliation... I've written to the Commission for 14 years. I have the copies here.

[Inaudible elevated exchange of words between the Chair and Mr. Rand]

The Chair explained to Mr. Rand that he is always welcome to make public comment; however, she stated she specifically requested public comment on the Non-interference in County Administration.

**Mr. Rand:** What happens is you're tying the hands of Commissioners that can't interfere for beneficial purposes. The County Administration as Ms. Gunzburger said; it collapsed yesterday. You can't jam that much stuff into one person who is at the top of a pyramid and expect it to work perfectly. You know, and these issues go on for years and if they go on for years and aren't resolved properly, then the rubber just doesn't meet the road until it collapses and the Administrator walks away. Then you're back to square one. The dog cannot catch its own tail. For beneficial purposes you really want somebody to interfere and as Ms. Gunzburger says on little issues or whatever, they may interfere and you're codifying tying their hands for interfering for beneficial purposes. I wish somebody would interfere for beneficial purposes on my behalf because I wouldn't be in this really untenable position that I'm in.

Mr. Esack asked Mr. Rand if he is speaking for the Charter Amendment.

Other members confirmed that Mr. Rand is in opposition of the Charter Amendment.

**Mr. Rand:** No, you're really tying everybody's hands here. You just want interference for beneficial purposes and not malicious. The intent of the ordinance, six years ago again I spoke to the previous Charter Review was to keep people from interfering for malicious purposes.

**[End Mr. Rand public comment]**

## **James Cummings – Broward Workshop**

My name is James Cummings; I'm here today representing the Broward Workshop. We represent other CEOs and businesses in Broward County. We support elevating this to the Charter level. We also have additional recommendations, which have been made available to you all; it should be in your package. We very much support the Committees request to elevate this. We could probably give you hundreds of examples.

**Mr. Weiss MOTIONED to place CRC Resolution No. 2008-002 Non-Interference in County Administration on the ballot, SECONDED by Dr. Rosenbaum.**

The Chair called for a roll call vote.

Commissioner Hayward Benson	<b>Yes</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Yes</b>
Mr. David Esack	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Ms. H.K. "Petey" Kaletta	<b>Yes</b>
Mr. Mark Ketcham	<b>Yes</b>
Dr. Mark Lieberman	<b>Yes</b>
Joseph Maus, Esq.	<b>Yes</b>
Commissioner Ted Mena	<b>Absent</b>
Mayor Lori Moseley, Chair	<b>Yes</b>
Burnadette Norris-Weeks, Esq.	<b>Yes</b>
Ms. Maggie Davidson	<b>Yes</b>
Commissioner Hazelle Rogers	<b>Yes</b>
Bruce Rogow, Esq.	<b>No</b>
Dr. Irv Rosenbaum	<b>Yes</b>
Ms. Jodi Jeffreys-Tanner	<b>Yes</b>
Mr. Wil Trower	<b>Yes</b>
Richard Weiss, Esq.	<b>Yes</b>

**Motion PASSED on a roll call vote of 16 YES to 1 NO.**

**Mr. Goren:** The item before the full Board included the word "**formal**" as requested Ms. Norris-Weeks.

The Chair confirmed consensus of the Commission was that the word “formal” will be included as part of the language. She then again recognized Dr. Rosenbaum to provide a refresher on the next proposed Commissioner’s Recusal Requirement.

## **2. “County Commissioner’s Recusal Requirement” (2008-003)**

Dr. Rosenbaum advised that the proposed Recusal Requirement is a product of discussions held between the AGSC and Mr. Ostrau during discussion of the Ethics issues. Dr. Rosenbaum advised that adjustments were made based upon suggestions made in terms of private activities. He advised that the proposed requirements would not pertain to situations outside of the purview of FS 112. He explained that this would only apply to private gain.

The Chair asked if the discussion is found in the Commission folders.

**Mr. Goren:** It was not discussed, motioned or moved by anybody, it was discussed only as a presentation by Commissioner Lieberman. The language that you have in the backup, I believe the most recent version reflects the actual recommendation. Commissioner Benson requested some linguistic change. For those reading the Resolution is 2008-003.

The Chair informed the Commission that the new Resolution is not provided in the Commission folder therefore Mr. Goren and Dr. Rosenbaum would fill in the Commission.

**Mr. Goren:** The question that Commissioner Benson raised at the last meeting was that all of Subsection E, which is currently in the Charter, was added. You’d asked that question, if all of E was added and you had some linguistic changes to delete certain sections within E. *Section 2.05*.

The Chair informed the Commission that no changes have been made until today’s discussion. She explained that what is in the Commission Binder has not changed and changes will be verbally addressed today. She advised that a memo went out this morning but has not been submitted to the Charter Review Commission as of yet. The Chair advised that Mr. Goren will provide changes verbally for the benefit of the Commission and then on top of that change she advised that Commissioner Benson has an opinion about what should or shouldn’t be there.

**Mr. Goren:** Section 2.05 is currently in the Charter. The objective is that Subsection E was added because the subcommittee requested it. Subsection E is the section dealing with the issue of Recusal, which we’ve heard testimony about on several occasions. Commissioner Benson had raised the issue that within E we needed to restructure the language specifically and we did do that, but the way it would

read now, I don't have the actual book in front of me, but I'll give you the language that would now read: *"In addition to the requirements of Chapter 112, Florida Statutes as amended from time to time, any County Commissioner who recuses themselves from voting on a matter being considered by the County Commission due to a voting conflict, shall also leave the Commission Chamber and not communicate or participate in the discussion relating to that matter at the time of the vote."* So we've tried to restructure your language.

Multiple members expressed confusion.

**Commissioner Gunzburger:** Can I please give you a technical adjustment?

The Chair recognized Commissioner Gunzburger.

**Commissioner Gunzburger:** Thank you. I've discussed this with our County Attorney and he said that there is a slight glitch. If too many of the Commissioners need to recuse themselves on an issue and they leave the dais, we could be left without a quorum. So the way to fix that is that they may not comment on the issue whatsoever. But if they leave the room and we have five of them leaving the room on one issue, it's unlikely, but it's possible, then we would be left with a quorum problem.

Ms. Tanner stated that she understands what Commissioner Gunzburger is saying, but reminded the Commissioner of the discussion at the last meeting with regard to non-verbal communication. She stated that the next question was at what point a conflict should be declared if in fact during a conversation it rolls into something that becomes a conflict.

**Mr. Goren:** Correct and no one can answer that question but them. It is unanswerable because what happens is that there are certain items that are agendaized before the County Commission or a City Commission which are clearly an issue with a maybe illegal/unethical conflict. You know that going into the conversation. One of your clients, for example, is on the agenda for an item for approval. You know at the outset that there is a conflict for which you need to recuse yourself from voting on. There are some issues involved in the conversation, which, unfortunately, you can't know the answer to and that becomes a point of conversation. We tried to in the revised language which went out this morning to restructure the language of E to make sure that in the last conversation that this Board had the issue was to leave the dais. What we did was we actually said leave the Commission Chamber; which was discussed by this Board during your last public meeting. So the objective is if you know there is a conflict going into the conversation, you need to recuse yourself under State Statute. The objective was you can't debate the topic because as an elected official in theory you could. That's what Norm Ostrau

told you all, as stated under Chapter 112. This would essentially do three things: you'd have to leave the room; you would have to of course declare the conflict and file a voting conflict form, and not debate.

Ms. Norris-Weeks reminded the Commission that the conflict would be a Chapter 112 very specific conflict. She advised that she could not imagine a situation where there would be no quorum. She stated that being on the subcommittee something that was debated back and forth was the non-verbal communication that takes place because while you are not participating necessarily verbally, there are so many things that can still be done to influence the other people who would be voting on the issue.

Ms. Norris-Weeks stated that one of the things discussed at the last meeting is what currently happens is that Commissioners will say that they are not going to vote on an item to avoid a conflict, but it only happens right before the vote. She stated that you don't know where there is a real conflict or not. She stated that a person sitting watching television there is no way to know if a form is filled out or not. Ms. Norris-Weeks advised the Commission that she thinks it is a very appropriate measure that has been proposed by the subcommittee.

Dr. Lieberman asked Mr. Goren, if you can't vote whether you're in the room or out of the room, you would not be part of the quorum.

**Mr. Goren:** Correct.

Dr. Lieberman confirmed that saying that they can stay in the room doesn't change the quorum.

**Commissioner Gunzburger:** No, there is a quorum present if you're in the room.

Dr. Lieberman stated that he does not think the quorum applies if you can't vote.

Ms. Tanner stated that it is to the general meeting and not the item.

**Mr. Goren:** I've not conferred with the County Attorney; I'm not sure what his thinking is; I'm sure he has some very good thoughts about the subject matter. But from the standpoint of this group's analysis of what you're trying to reach, the potential of having the quorum lost because of a series of conflicts at the same time has not ever happened in my career. It certainly could happen as a possibility, but it is very doubtful.

**Commissioner Gunzburger:** It's never happened in the 25 years I've been in office.

**Mr. Goren:** But it is certainly possible. We have not looked into the crystal ball to find that in this; we just don't know the answer. It's highly unlikely. Is it possible legally and factually? Yes. That's not reached by this document. I assume that if the quorum is lost because of the fact that there is such a legal conflict that it would need to be retooled in some fashion to avoid the conflict.

Dr. Lieberman asked if it makes a difference whether they are in or out of the room.

**Mr. Goren:** Right, nothing can happen anyway.

Mr. Maus requested the public refrain from inappropriately interrupting the debate of the Commission by speaking out of turn and approaching the podium without being requested to do so. Mr. Maus expressed concern with the way the resolution is written. He asked Mr. Goren at what point someone would be required to recuse themselves from the discussion.

**Mr. Goren:** The best answer is that it's a moving target. There are some things that are known from the very beginning, when the agenda item is set and the individual voting member recognizes the potential for conflict or a pure conflict. So that's known from the very beginning. The vote is not taken until the end of the conversation. That's where the fear of this discussion is growing. The answer is that sometimes you can't know the answer and, unfortunately, I can't draft a document that reflects what's yet to be determined factually, because you can't know the answer. The objective of the subcommittee was to grasp and to capture in the net, immediately those conflicts which were clear. Where there is a clear voting conflict where that person who had a clear Chapter 112 issue is not going to sit there and debate the topic and then not vote. The objective is that they wouldn't sit there; they wouldn't debate the topic, and they wouldn't be in the room. So the objective was to capture it up front. Whether it occurs during some later time, it's very hard to predict how to get there linguistically or in a fashion that will satisfy the potential of not knowing what will happen later. It's hard to do.

Mr. Benson stated that he still has difficulty with Item E. He explained that it appears that if a person is elected to serve on a political body that person should be able to participate in any discussion whatsoever when that political body is discussing an item that affects the public. He stated that if there are violations in Chapter 112 then they should be enumerated and addressed at the time they need to be addressed. Mr. Benson advised that if there is a requirement in Chapter 112 that a recusal means leaving the room leaving the room and not participating in any discussion then so be it, but if Chapter 112 does not call for that, then he asked why impose that on a duly elected person who serves the public. Mr. Benson stated with regard to having no quorum at the time the issue needs to be voted on, that you could very well have a quorum with less than 9 people present. He stated that if there is a

distinction that would cause some of those persons sitting on the Commission to have to leave, then that affects as to whether or not you will have a true forum sitting there. He advised that the language could be adjusted to say simply that *a County Commissioner shall recuse him/herself from voting on a matter being considered by the County Commission due to a voting conflict, pursuant to Chapter 112 Florida Statutes as amended from time to time.*

Ms. Norris-Weeks advised that this is the law now.

Mr. Benson responded that if this is the law then re-state the law and let it be just that. He advised that he does not agree to have additional restrictions placed on persons, especially when they are elected to represent the people. To say that they can't participate in a discussion and in fact they have to leave the room, Mr. Benson states that he believes this is uncalled for.

Mr. Rogow advised that he is against the proposed resolution as the message is perpetuating distrust of elected officials.

Ms. Eisinger advised that being a member of the subcommittee she had the opportunity to listen to all sides. She stated that Mr. Ostrau addressed that subcommittee and she understood him to kind of encourage strengthening individual bodies of government.

**Mr. Goren:** The Bill failed last year and the year before. The Bills filed, naturally provide for what you are discussing now.

Ms. Eisinger advised that Mr. Ostrau seemed to encourage the subcommittee as the item was being discussed.

**Mr. Goren:** He did.

Ms. Eisinger asked should we question the ethics of our elected officials or on the other hand is it protecting the elected officials?

Mr. Weiss agreed with Mr. Goren and advised that he has seen similar provisions operate in Dade County and other places for years and he has never seen this cause problems in quorums.

Mr. Weiss stated with regard to the *sequence* that State law does not really say when a conflict must be declared other than before you vote. The concept discussed in the subcommittee was somebody could talk about advocating a particular position and they are not really required to state their conflict until before the vote. Therefore, someone could have a whole conversation and when time comes to vote

they could abstain. Part of what the subcommittee was trying to do is put some sort of sequence to the proposed resolution. Mr. Weiss stated that he thinks it does need some redrafting, but he thinks that what was discussed previously was any County Commissioner who is required to recuse themselves should state at the beginning of the conversation that they have a conflict and then they leave.

The Chair asked Mr. Weiss to discontinue the use of “at the voting meeting.”

Mr. Weiss stated that he is in favor of them leaving for the reasons that everyone on the Committee has stated. He advised that the last discussion dealt with *when they have to leave* and the issue brought up by Commissioner Lieberman was that there are 2 times that there are certain situations when you can't vote under State law, but as an elected official you have a constituent point of view to be raised. Mr. Weiss explained that what was being suggested was that you should have to leave the room when you have a conflict that exists because of your *private personal business*. Not because of a conflict that's created because you live in a particular area of town that might be affected by a County Commission vote.

Mr. Weiss stated that the points he wanted to make are:

1. He is in favor of the concept.
2. It needs a rewrite with somewhat of a procedure to be built in so that the conflict is stated before the conversation occurs and that people leave.
3. He stated that he would like to see it slightly limited. They don't have to leave anytime there is a conflict under Chapter 112, but only a conflict that is created by virtue of their personal private business as opposed to a constituent issue which they should be allowed to participate. Mr. Weiss advised that they still can't vote under Chapter 112 but they should still be able to express a constituent position.

Ms. Good advised that she does not believe that the Committee brought the issue forward with any distrust toward the County Commission. She stated that Mr. Ostrau brought the issue forward as an element that needed strengthening. Ms. Good stated that the ability to influence still remains and the subcommittee wanted to minimize that potential. Ms. Good stated if you have a conflict pursuant to Chapter 112, you should not be influencing the discussion. Because anytime you are discussing and participating in the discussion you are moving toward a target and that target may not be the most appropriate.

Ms. Norris-Weeks advised that the proposed resolution falls very nicely in line with the current Charter. She referred to the Citizens Bill of Rights located in the Charter at Section 1.04 J where there is a

sentence that addresses *even avoiding the appearance of impropriety in the performance of duties*. Ms. Norris-Weeks stated that Mr. Ostrau expressed that this is something that they've been trying to do from a legislative standpoint for many years and it keeps failing every time it goes up. Ms. Norris-Weeks advised that the Commission on Ethics has really been pushing it out as a real initiative that they've been trying to put in State Statutes but it just hasn't happened. Ms. Norris-Weeks advised that she believes it is just good government.

***[The Chair called for a 10 minute break – 1:41 p.m.]***

***[The Chair reconvened the meeting at 1:57 p.m.]***

The Chair recognized Ms. Kaletta.

Ms. Kaletta advised that she did not wish to cast any dispersion on public officials but she stated her comment comes as a part of the public. Ms. Kaletta stated the public already has a negative opinion regarding public officials. She stated that she feels something like this puts in place safeguards and that she believes the proposed resolution is a positive thing because it builds a positive perception.

Ms. Rogers asked if the proposed "recusal" resolution could be a County-wide item of the Charter to include municipal elected officials. She advised that she can't see there being any reservations to include every elected official within the County.

The Chair informed Ms. Rogers that she can't do other municipality Charters.

Mr. Trower agreed with Ms. Kaletta and the fact that placing the language in the Charter would in fact improve that perception. He then questioned when Mr. Weiss discussed rewriting the section. Mr. Trower expressed confusion about when in some cases people are subject to Chapter 112, and would or wouldn't participate. He requested more clarification on the difference. He advised that it seems that if it is a violation of the statute, then that should be the case. Mr. Trower stated that he does support moving ahead with the proposal.

Mr. Ketcham advised that he watches the County Commission meetings and there are several Commissioners who will recuse themselves in the abundance of caution. Mr. Ketcham stated if the Commissioner is not allowed to discuss the subject, they might not recuse themselves. Mr. Ketcham stated that he agreed with Mr. Benson.

The Chair asked Mr. Goren if recusing oneself is optional legally.

Mr. Goren: Just for the record *what's important to note is that an elected official or appointed official depending upon the Board that you're on, the decision to not vote or abstain from voting, which is what the statute says, really is your independent decision. You make that decision. You'd need to make it independently because you believe you have a conflict under the statute or you ask your County Attorney or City Attorney whether or not they believe you have a conflict, or you call the Ethics Commission at 9:30 at night and they're not going to be able to answer your call because they are not there. So the answer is it really is self-instructed. If you know going into a discussion that there is an item on the agenda on which a vote will be taken where you have a special private gain or loss to yourself or to a principal, then you have a conflict under the statute and that would be known to you when you walk in the door.*

The Chair advised that it is "pretty specific."

**Mr. Goren:** *"Special private gain or loss to yourself or to a principal employed by you."*

Mr. Benson agreed that there needs to be rewrite and requested that in doing the rewrite, consideration should be given for the business concern that one might have if he/she is sitting on the Commission and a vote needs to take place. Mr. Benson stated that to limit an individual's ability to discuss a matter or participate in a discussion on a matter, in his opinion, delimits that person's ability to serve the people.

The Chair suggested that the question of when, should be when the item is a voting item on an agenda.

Ms. Eisinger asked if there is another place in the State Statutes that specifies when an elected official has to recuse themselves.

**Mr. Goren:** Florida Statute Chapter 286 as well as Chapter 112. What the law says is that if you're an elected official, you have an obligation to vote. It's your sworn duty to vote, unless under Chapter 112 you have a conflict of interest, which is described by the Statute. There is a bit of a quirk in the law, however, in 286 they use the words "appearance of a conflict." Many times, public officials will, in looking inwardly, determine objectively that there is an appearance of a conflict. Not in Chapter 112 but under Chapter 286 for which they will then abstain from voting. That's a decision that the lawyer doesn't get to make, but the individual elected official gets to make under the circumstances.

Ms. Norris-Weeks stated that she is not in agreement with rewriting something. But if it is the will of the full Commission she stated that she would like to be clear on what is being sent back to be rewritten.

The Chair called for a motion as to whether there are at least 10 people in favor of sending the proposed resolution back to legal counsel for addition language and continued discussion by the full CRC.

**Dr. Rosenbaum MOTIONED to continue discussing proposed resolution No. 2008-003 - County Commissioner's Recusal Requirement and to send the proposed language revisions back to Legal Counsel, SECONDED by Ms. Good.**

The Chair clarified that the MOTION will be based on whether to keep Chapter 112 as is or whether to expand how 112 is carried out and whether one should leave the room.

**Mr. Goren:** Clarification of the MOTION for the Board. The issue that Norm Ostrau discussed with the subcommittee and they very clearly stated is: For an elected official on the dais, making a decision they are allowed to debate but not to vote is a Chapter 112 conflict. The direction of the proposed amendment would be that they can't debate; they can't vote and would have to leave the room.

Mr. Benson stated that he would want them to continue to debate.

Mr. Trower reminded that sequencing of the process steps that would take place should be included in the MOTION.

Mr. Trower also suggested applying Chapter 112 in two distinct manners: if it is a financial gain, the elected official would have to leave and if it wasn't a financial gain but represented a community or constituent issue they could stay.

Ms. Norris-Weeks asked if the issues could be broken out.

Dr. Rosenbaum simplified that the elected official would have to leave the room if it is direct private gain.

The Chair passed the gavel to Vice-Chair Rogers at 2:17 pm.

Ms. Eisinger pointed out that Dr. Benson's proposal right now would be to do nothing. She suggested that the Chair of the AGSC should coordinate with legal counsel to bring what is being discussed back to the table at the next meeting.

Dr. Benson stated that part of Chapter 112 says "as may be amended from time to time." Mr. Benson asked what impact this would add if something other than Chapter 112 is done.

***[Dr. Lieberman departed at this time]***

**Mr. Goren:** The language that we put into the proposal is not uncommon to ordinance drafting or Charter drafting, which means that in the future if the State law changes and reflects a modification of what you've done, it preempts what you've done. The consequence is, hypothetically, the legislature could meet next year and decides that whatever was decided here, put on the ballot and passed, hypothetically, could be reversed by the legislature. They could amend the statute under which this is governed in a different way. In that context, the prioritization of statutes and constitutional law and such like that, the statute would preempt, or if it modified the provision in some fashion that would also be applicable as a modified provision as well.

Vice-Chair Rogers asked if it would take the State legislature to go beyond the County Commission on the current issue.

**Mr. Goren:** No, what you're in concept discussing today could be adopted by Charter Amendment and can be applicable in Broward County.

Vice-Chair Rogers expressed confusion stating that there are County employees and City elected officials who sit on County Boards, who are making decisions and recommendations.

**Mr. Goren:** Madam Vice-Chair this is to apply only to the County Commission; it does not apply to subordinate bodies.

Ms. Good asked if legal counsel could draft a couple of options including the amended language with a sequence of events as the 1<sup>st</sup> option and a second option being the two scenarios of conflict of interest one to leave and one to participate.

Mr. Trower confirmed that there was a Motion on the floor. Vice-Chair Rogers asked Ms. King to restate the current motion with support from Mr. Goren. Ms. King advised that the motion was as follows:

**Dr. Rosenbaum MOTIONED to have the AGSC and Legal Counsel continue work on proposed resolution No. 2008-003 - County Commissioner's Recusal Requirement including the addition of sequencing language to Section 2.05 E, SECONDED by Ms. Good.**

A brief discussion took place and it was determined that should Dr. Rosenbaum's motion pass, Dr. Benson's proposal to do nothing would automatically fail.

***[Dr. Rosenbaum exited at this time 2:27 p.m.]***

Vice-Chair Rogers called for public comments.

## **Dan Glickman**

I know I'm talking to 14 open minds. To paraphrase Mr. Weiss, the devil is in the sequencing and Mr. Goren quite properly said, this is supposed to be motions and debates and votes. That's the way the sequence is supposed to work. If a person thinks that there is *discussion*, that's the wrong frame, it should be debate after a motion and that's the way it works. The reason I'm saying that is if a person thinks they have a conflict. The way that the sequencing has to be is they have to ask what the motion will be and if the motion indicates that the person has a conflict. That's when they have to recuse themselves, holding aside whether they're going to leave the dais or not. If however the motion for whatever it is, does not therefore require the person to leave the dais because the motion doesn't mean that there's a conflict then they don't have to. That's why sequencing is so important. But what I haven't even addressed is that even after that is concerned, what happens if there is a motion, a person recuses himself, leaves the dais and then there's an amendment and let's say the amendment changes something. That's why the sequencing has to indicate what to do if there's an amendment at that point. How does the person who just left know that the amendment takes effect and knows that he or she no longer has a conflict? I'm a member of the public. As soon as I see a person who thinks he or she may have to recuse themselves for whatever reason, I'd like to see that person leave the dais, not have facial (and that's what Ms. Weeks was referring to) expressions, grimaces or whatever; leave. If they have something and they want to advocate. They can put into the record whatever written documentation they want, they can send it out as far as for the written record. But at that point they should recuse themselves and leave the dais.

Ms. West advised Mr. Glickman that the Commission is talking about agendized items. She advised that there is always a Motion to Discussion, Motion to Approve, a Motion to Appoint; they know what the motion is.

**Mr. Glickman:** Right, that's why whatever the issue is, if they feel they need to leave, they leave.

**[End Dan Glickman]**

## **Commissioner Sue Gunzburger**

Thank you. That's one of the things I was going to say. I hate to use real examples but I think I must on this. I come from the City of Hollywood and we had a recent event within the last two years involving a contract for a sewage disposal in which two of the seven Commissioners were intimately involved in the issue; one because of his law firm and one because of her son. They spoke at great length urging the Commission to support a certain contract which was the lowest rated one by the professionals and the

staff when they looked at the three contracts that were submitted. They then recused themselves from voting even though they knew they had a conflict, citing 112, which is what Commissioner Benson was talking about. It was because of this that I tried to get it through the Broward County Commission because I feel it's an inherent, much stronger ability to sway the other Commissioners if you have an inherent conflict. For several years while I was at the Broward County Commission my husband had a factory that produced plastic lumber. Whenever there was a bid, which meant that it was really only a hard bid and they would choose who they would purchase from and it was based on price, I declared a conflict at the very beginning and left the room and never voted on it. I've lived by what I believe in and sometimes – we have had meeting after meeting as Mr. Ketcham has said, where people have said, "I don't have a conflict, but I have the appearance of a conflict." We have no idea why and I don't know if we really need to know why. But I believe in their right not to vote if they believe because as Ms. Kaletta has said the public's perception is always – they like to see things negatively more than they like to see things positively, unfortunately. Therefore, I would really urge you to pass this in its final form with people not speaking when they have a conflict. Whether it's their neighborhood, I remember once when they were going to change zoning that affected a piece of property that my husband owned. I was told that I could vote on it because it affected a large area and we just had a very small piece of property. But in an abundance of caution I recused myself rather than have it come back to me and have it said, "You did this because you could eventually be enhanced financially" and I think that is the best thing we can do if we're going to try to build public trust and my goodness it is not there today.

Vice-Chair Rogers stated, throughout the County.

**Commissioner Gunzburger:** Not just the County, not your City, of course. But even Congress, when we look at – you know everybody talks about the President, but Congress is under 50%; it's about 36%.

Mr. Cummings: 27%

**Commissioner Gunzburger:** 27% thank you.

Vice-Chair Rogers advised Commissioner Gunzburger her time was up and recognized Mr. James Cummings.

### **James Cummings**

I'll be very brief; again, my name is James Cummings, and I represent the Broward Workshop. I've appeared before all sorts of Commissions in various states, various Counties, various Cities. I just want to make it perfectly clear. From the Broward Workshop's perspective, we totally, totally disagree with

Mr. Benson's position. We would like to see people leave the dais. I can assure you if you are up there and discussing an issue; if you're an outstanding debater, there are many people there that you will intimidate. If your voice is such that it transcends the environment and goes right to the heart of the person, believe me they will digress. They will not be aggressive. If the speaker is aggressive, if they know how to express their position, it will be received that well and I can't tell you how many Boards I sit on where I personally can intimidate the people as I go around the room and get their vote. It happens. From the 100 businesses we have, I will tell you; in the many times that we have gone before the Commission we see it day in and day out. You heard Commissioner Gunzburger talk to you about how the population feels and are impressed with our legislative delegations, our County Commission, our School Board. Believe me, you can't do anything better than improve on the ethics part and it should be elevated to a Charter issue. We whole-heartedly agree with Mr. Rosenbaum's and the subcommittee's proposal and we would ask that you support that. Vote on it now, let it go. It doesn't have to go any further than this. Again, the business community is totally opposed to what Commissioner Benson suggested.

Vice-Chair Rogers asked Mr. Cummings if the Broward Workshop would support the elevation to include municipalities.

**Mr. Cummings:** I don't think legally you can do that. I would, as far as I'm concerned every governmental entity should be transparent relative to this and if there is any slightest indication of conflict, the person should leave the dais.

Mr. Goren: The answer is no. You can't do it. Under Chapter 166 under Home Rule because cities have authority unless prohibited by State law, only State law could change it.

Ms. Eisinger advised Vice-Chair Rogers that she feels the same way. She suggested sharing suggestions through the Broward League of Cities.

***[End James Cummings]***

### **Commissioner John Rodstrom**

Thank you. This is a topic I'm really excited to talk about. My name is John Rodstrom, County Commissioner and what's happening is that the ethics laws have been evolving lately and there have been some major changes. Historically, the litmus test was, when you take a vote, does it impact financially to your betterment or detriment yourself or your business. That was the litmus test and the State law is built around that and there are forms that we file when we have that test. What has

changed everything is that the Federal government has now been instituting what they call *deprivation of honest services*. So the theory is that if you deprive the taxpayers of honest services, it means that you've committed a felony. So that means that anytime I cast a vote where my vote has been obscured because of some relationship and it could be because I own a condo with somebody. It could be because I've taken an unreported trip with somebody. I could be because I have an undisclosed business relationship. It could even be because I have an affair with somebody. But the point is that my vote is tainted and if proven I've committed a felony. So I think what's happened is people are still governing themselves under the old litmus test which is State law and the forms that we file do not address Federal law and how that's being dealt with but there are people – Lobbyists who are going to jail when they haven't even committed a vote because they have not disclosed a relationship that they have. So this is very serious stuff. The Feds are getting convictions all over the country. They've stepped up their operations here in South Florida. So you can expect that we're going to see a lot more of this. So notwithstanding what this body does, they're here and their views about everything are very different. I just wanted to weigh in on it.

***[End Commissioner Rodstrom]***

**Vice-Chair Rogers called for a re-statement of the MOTION.**

**Mr. Goren:** In general theory the motion by Dr. Rosenbaum was to essentially have us revise and rewrite the proposal 2008-003 which essentially provides a mechanism for those who have a Chapter 112 conflict to in fact not vote, not debate and to leave the room and procedurally provide for that sequentially.

Vice-Chair Rogers requested the roll call.

Ms. Kaletta asked if she votes **no** if it means she is agreeing with Commissioner Benson.

**Mr. Goren:** If you vote **no** you're agreeing with Commissioner Benson. But for the record the vote you are taking at this moment is not to approve this item. It is to send it back for review and allows it to continue in debate. It will come back to you for an ultimate 13 votes if you so choose.

Mr. Benson addressing Mr. Cummings comments stated that his point is to make absolutely sure that people who sit on a dais because they are elected have the right to express themselves for issues that come before them and if there is a conflict and they see that the conflict is there that they recuse themselves from voting. Mr. Benson stated that he wants to make sure that he has a clear motion that really addresses what it is that he is going to be voting on. He added that Chapter 112 in his opinion fits

that description and he would agree that there would be some adjustments that can be made, but not to the extent of excluding conversation.

Mr. Esack suggested that anyone unclear of what they are voting on should read letter Section 2.05 E.

Vice-Chair Rogers again requested the roll call.

**Dr. Rosenbaum MOTIONED to have the AGSC and Legal Counsel continue work on proposed resolution No. 2008-003 - County Commissioner’s Recusal Requirement including the addition of language to not vote, not debate and to leave the room in addition to sequencing language to Section 2.05 E, SECONDED by Ms. Good.**

Commissioner Hayward Benson	<b>No</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Yes</b>
Mr. David Esack	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Ms. H.K. “Petey” Kaletta	<b>Yes</b>
Mr. Mark Ketcham	<b>Yes</b>
Dr. Mark Lieberman	<b>Absent</b>
Joseph Maus, Esq.	<b>Yes</b>
Commissioner Ted Mena	<b>Absent</b>
Mayor Lori Moseley, Chair	<b>Absent</b>
Burnadette Norris-Weeks, Esq.	<b>Yes</b>
Ms. Maggie Davidson	<b>Yes</b>
Commissioner Hazelle Rogers	<b>Yes</b>
Bruce Rogow, Esq.	<b>No</b>
Dr. Irv Rosenbaum	<b>Yes</b>
Ms. Jodi Jeffreys-Tanner	<b>Yes</b>
Mr. Wil Trower	<b>Yes</b>
Richard Weiss, Esq.	<b>Absent</b>

**Motion PASSED on a roll call vote of 12 YES to 2 NO.**

### **3. “Regionalism Policy Statement” (2008-006)**

Dr. Rosenbaum provided a brief overview of the proposed Regionalism Policy Statement. He explained that what the subcommittee put together is to focus the County government on its larger primary

objectives, which are Economic Development, Environment, Transportation, Comprehensive Planning etc., and the larger elements of what the County does. He stated that he believes the County having had the municipal functions in the unincorporated areas over the years developed a dual-function being both a municipality and a County. Dr. Rosenbaum explained that the County has done a good job of getting out of the business of municipal services; however, he added, that there are still some unincorporated areas left and still some services to provide. Dr. Rosenbaum explained that the proposed resolution sets the future direction of the County in terms of the bigger issues that we all depend on.

Dr. Rosenbaum advised that there are two good ways to organize County government: one of which is the 2-tier structure with the municipalities doing something and the County having a County-wide objective or the County could adopt the Jacksonville model where you consolidate everything. He explained that this goes back to the early days of the Charter to our second County Administrator, Mr. Lex Hester who really pushed along what was called at the time The Hester Plan which called for getting rid of the unincorporated area and taking the County out of the municipal services. Dr. Rosenbaum advised that this process has continued, but County government has changed and has gone to single-member districts and other changes. He advised that the proposed resolution is necessary to direct the County and give the County government its proper *regional* role as the regional issues need to be addressed and are being addressed now. Dr. Rosenbaum stated that we have to continue the County as changes occurs in the future and the County needs to continue to move in that direction.

Dr. Rosenbaum advised that the proposed resolution is just a *Policy Statement*. He explained that it is kind of like a Mission Statement in the Strategic Plan. He added that Broward County is not the thirty-second city and he believes that it needs to be stated somewhere. Dr. Rosenbaum advised that he believes that is why it needs to be placed in the Charter.

Dr. Rosenbaum asked Mr. Goren if he left anything out.

**Mr. Goren:** No, very comprehensive.

Ms. Tanner agreed with Dr. Rosenbaum; she added that she believes that the resolution is a great idea.

**Mr. Esack MOTIONED to accept proposed resolution 2008-006, SECONDED by Mr. Benson.**

Ms. Norris-Weeks suggested adding language that would give an idea as to what the Commission is trying to address. She advised that this suggestion is in follow-up to a discussion regarding First Responders.

Dr. Rosenbaum responded that the resolution does not preclude the County from addressing regional public safety issues.

Mr. Rogow read the proposed language of the resolution “...clarifying the Broward County government’s duty to develop and implement programs, policies, and budget with a regional focus without being precluded from delivering services on a less than regional basis.”

Dr. Rosenbaum agreed.

Ms. Rogers asked if there were areas identified that the Commission believed Broward County should focus on.

Ms. West replied yes. Mr. Rogow advised that what the voters are going to see is what he just read to the Commission with a little additional language. He advised that this might not be enough for the voter to comprehend.

Dr. Rosenbaum stated that if the County was in an ideal 2-tier form of government and the County provided the regional services, the County would still contract for services. He added that he does not want to preclude the County from delivering a service, but once the annexations are done County-wide the authority currently providing those services for the municipality that is there would continue to provide those services. Dr. Rosenbaum agreed that it may be a little confusing but the problem is, in reality - the delivering the services - the County is a big service deliverer of municipal services, particularly through the Sheriff’s Department.

Mr. Rogow suggested further clarification of the language of the proposed resolution.

Vice-Chair Rogers suggested discussing and identifying the areas “but not limited to.”

Dr. Rosenbaum stated that at the League of Cities, every once in a while the County decides to take over municipal functions. He advised that even though back in 1975 when they began to draft the Charter, there were always these issues to deal with. He added that when the County went to single-member districts, the County Commissioners began to get constituent requests and constituent requests would normally go to cities. He stated that Single-member districts were a big shift in the County Government. He stated that the purpose of the Resolution is to have the County stay the course, stay focused and address the big problems without being diverted by what municipalities are doing.

***[The Chair returned at 2:52 p.m.]***

Vice-Chair Rogers passed the gavel back to the Chair.

Vice-Chair Rogers asked Mr. Goren to read the motion back for the Chair's benefit.

**Mr. Goren:** The motion is to essentially approve resolution number 2008-006 and submit that to the electorate.

The Chair called for other comment. There was no public comment.

Mr. Maus advised that he agrees with Mr. Rogow; he added that the Resolution from the AGSC Subcommittee is a nice "feel-good" gesture. However, he believes that if the Resolution passes it wouldn't require the County to do anything differently and also he does not believe it would accomplish a lot in the Charter.

Ms. Rogers advised that future Commissioners would not grasp what the Resolution means and what the Charter was thinking of. She added that it did not state specifically the areas of focus.

Ms. Tanner stated that she believes that it is a great ideas; she suggested that it should be clearer to the public what it is the Commission is trying to accomplish.

The Chair stated that she believes the reason why the statement is being made is because of Broward's desire to have all unincorporated areas annexed. She added that she believes the language that could be missing is "*as we become more of a regional government with minimal unincorporated areas that focus should be on regionalism.*" She advised that the County's role has changed over the years.

Mr. Trower advised that he agrees with the Chair that there needs to be more substance so that people can understand what they are dealing with. He added that he understands the reason for the Resolution, but does not think the language supports that.

**Mr. Goren:** Madam Chair as a couple of quick legal constraints. The ballot title cannot be more than 15 words, so that is an automatic limitation. The question cannot be more than 75 words; we're not in violation but the attached item, which is Exhibit A, can be longer which is going to be the actual Charter change itself. Bearing in mind that a ballot question or referendum question advises the public on what they are voting on. They can be confused or given miscommunication of what they are actually being asked to vote upon. Understand also that as a matter of state law when a referendum question is actually on the ballot, the type of ballot question that is on the machine itself, there is a posting in the polling place so that the voter in technical terms could look behind the question and the title and look at

the actual substance. So if it be the wish of this Board to amplify the substance without violating the provisions in a 15 and 75 words requirement, we can try to work on that.

Ms. Davidson advised that it seems as though voters have confusion understanding the language put in front of them. She added that she does not know if voters will know what *regionalism* is. She advised that this is something that she sees as evolving in the County. She stated that she does not know if it is necessary. Ms. Davidson stated that it seems so non-specific that it could be something that goes over their heads and they will say that it is the government trying to get something by. Ms. Davidson advised that she would like to see something a lot more specific or not at all.

Mr. Benson stated that the comment with regard to the way the question is stated has a lot of merit. He added that the Commission has the responsibility to be as clear as possible. Mr. Benson questioned the educational component that exists.

**Mr. Goren:** This Committee, the County Commission and the upper public bodies under State case decisions can actually educate the public on items that go out to the voters. My recollection was the last Charter Review Commission actually had a line item in the budget for education of the voters after they'd completed their work. There were brochures as I recall – an explanatory brochure that actually walks you through what it was you were being asked to consider. So there was a post closing obligation and opportunity for this Board, independently, and the County Commission to inform the public about what the items were that they were being asked to consider on the ballot. There is a way to get there – I am not sure it is in the budget for this entity, but it was in the past and legally it is doable if it is in fact education.

The Chair stated that there have been budget cuts in Broward County. Mr. Benson asked if that is a concern that needs to be raised at some point. Ms. West advised that once the final decisions are made the next step will be to have public hearings for public input.

The Chair gave Mr. Dan Glickman the floor for public comment.

#### **Mr. Dan Glickman, Deerfield Beach – Public Comment**

**Mr. Glickman:** Thank you. I will be brief, I thought – and Mr. Goren correct me if I am wrong - at some point in time after the vote is taken by the 13 and placed on the ballot, I thought that part of the process between then and actual putting it on the ballot – I thought that there would be 2 public hearings.

**Mr. Goren:** There are, it is required by the Charter.

Mr. Benson stated that there needs to be more public hearings.

**Mr. Glickman:** Okay, that is what I thought; there will be two public hearings. The reason I asked the question – I wanted to clarify that because when you folks discussed to use the word *perhaps* the vagueness of this I was hoping that whatever you come up with – and I am all for regionalism by the way – that public hearings might induce clarification in whatever you might promote. But if there are two public hearings – just to follow through for a brief second – a non-procedure. If those two public hearings occur, is there some way of incorporating or not whatever might be said that you may want to incorporate into that, and what would be the process at that point in incorporation?

**Mr. Goren:** The answer to the question is the Charter requires two public hearings before the actual delivery of the Charter Amendments to the County Commission. The hearings that were conducted early on in the process were simply for public input; there weren't necessarily public hearings on the items.

The Chair advised that it is not final until it goes before the County Commission.

**Mr. Goren:** The County Commission under the revised Charter essentially takes from you your work product and puts it on the ballot and calls the election at their expense.

Mr. Trower confirmed that the process of the Charter Review Commission in advising that the Board drafts the proposed ballot language; then it would go to public hearing, and the Board will reconvene again after the public hearing to finalize the language, and then the final version is sent to the County Commission is correct.

**Mr. Goren:** No later than the first Tuesday in June<sup>t</sup>, 2008; that is correct.

The Chair advised that the public hearings will begin in February.

The Chair requested the roll call.

**Mr. Esack MOTIONED to accept the Regionalism Policy Statement (2008-006) as is and place it on the ballot with future public hearings, SECONDED by Mr. Benson.**

Commissioner Hayward Benson	<b>No</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Absent</b>
Mr. David Esack	<b>Yes</b>

Ms. Patricia Good	No
Ms. H.K. "Petey" Kaletta	Yes
Mr. Mark Ketcham	No
Dr. Mark Lieberman	Absent
Joseph Maus, Esq.	No
Commissioner Ted Mena	Absent
Mayor Lori Moseley, Chair	No
Burnadette Norris-Weeks, Esq.	Yes
Ms. Maggie Davidson	No
Commissioner Hazelle Rogers	No
Bruce Rogow, Esq.	No
Dr. Irv Rosenbaum	Yes
Ms. Jodi Jeffreys-Tanner	Yes
Mr. Wil Trower	No
Richard Weiss, Esq.	Yes

**Motion FAILED on a roll call vote of 6 YES to 9 NO.**

**Mr. Trower MOTIONED that the proposed Amendment 2008-006 be redirected back to the Administrative Issues / Governance Subcommittee for rewriting, SECONDED by Ms. Good.**

Commissioner Hayward Benson	Yes
Michael Buckner, Esq.	Absent
Mayor Debby Eisinger	Absent
Mr. David Esack	Yes
Ms. Patricia Good	Yes
Ms. H.K. "Petey" Kaletta	Yes
Mr. Mark Ketcham	No
Dr. Mark Lieberman	Absent
Joseph Maus, Esq.	Yes
Commissioner Ted Mena	Absent
Mayor Lori Moseley, Chair	Yes
Burnadette Norris-Weeks, Esq.	Yes
Ms. Maggie Davidson	Yes
Commissioner Hazelle Rogers	Yes
Bruce Rogow, Esq.	No
Dr. Irv Rosenbaum	Yes

Ms. Jodi Jeffreys-Tanner                      **Yes**  
Mr. Wil Trower                                      Yes  
Richard Weiss, Esq.                              **Yes**

**Motion PASSED on a roll call vote of 13 YES to 2 NO.**

Ms. West asked what happens when a vote is taken and Board member was not in the room and then returns.

**Mr. Goren:** The record reflects no vote if they were not in the room during the vote – you got to be here to play.

The Chair gave Commissioner Gunzburger the floor.

**VII. Ordinance No. 0-2007-26 City of Hollywood- “Code of Ethics”**

**Commissioner Gunzburger:** Thank you, the City of Hollywood did pass an Ethics Ordinance this year which says that they would not allow people from other governments to come and lobby them. You all have a copy that; the feeling was it placed an undue influence on the City – and none of them can lobby other governments. I really feel that this is important because I see several city officials here – when one of us goes and lobbies you all, and then you want to come back and ask the County Commission for grants or other things that you need for your cities, it may make you uncomfortable to turn down one of us. I thought it might be okay if you were to put on the ballot language something that would prohibit County Commissioners from lobbying governments within Broward County. This would not prohibit them from making a living outside the County where they don’t influence – you know, like going into North Miami Beach or into Boca. They’re not coming to us to look for grants or other likely sources of votes as we would have influence over them. That’s what this was all about; if there are any questions I will be happy to answer them.

**Ms. Kaletta MOTIONED to refer City of Hollywood Ordinance No. 0-2007-26 - “Code of Ethics” to the Administrative Issues/Governance Subcommittee, SECONDED by Mr. Benson.**

**Commissioner Gunzburger:** But to extend it the other way is as well so that the County Commissioners would not have the ability to go lobby cities on behalf of clients.

Ms. Norris-Weeks advised that the issue of lobbying was an issue that was intended to be addressed but the subcommittee never did. She suggested that in addition to the City of Hollywood Code of Ethics topic if the topic of lobbying in general could be addressed.

The Chair asked Ms. Norris-Weeks for further details of her request.

Ms. Norris-Weeks explained lobbying in the way the County currently deals with lobbyists and looking at the Lobbying Ordinance in the way that it extends itself to something in the Charter that would be appropriate.

The Chair stated that they are two different issues.

Ms. Norris-Weeks explained that she'd like to possibly have it addressed.

The Chair suggested dealing with the current motion prior to addressing Ms. Norris-Weeks request.

Dr. Rosenbaum clarified that the AGSC would be considering precluding County Commissioners from lobbying municipalities.

Mr. Benson asked if they would be in their role as a Commissioner or as a professional.

**Commissioner Gunzburger:** As a private person, because that is how some of the problems – again I hate to keep using my home town, but that is how some of the problems came up because Commissioners try to use their influence and we have had....

Mr. Benson asked Commissioner Gunzburger how many attorneys are on the County Commission.

**Commissioner Gunzburger:** Let's see there's Lieberman, you may not know it but Rodstrom is an attorney, and Keechl is an attorney, and Ritter is an attorney four (4) that I can think of offhand; I am not. That's why I am sort of looking to you to help clean the language up.

Mr. Benson stated that there are 4 attorneys on the Commission and the Commission is for all intent and purposes part-time.

**Commissioner Gunzburger:** But we are paid better than any city. We are paid better than any State Legislator and we are getting close to \$100 thousand.

Mr. Rogow advised that he believes that this is not enough. He explained that for such a big job and the kind of responsibility it is underpaid.

Mr. Benson stated that there are 4 attorneys that sit on the County Commission and each of them has another life. He stated that this other life may in some instances cause them to appear before other

elected bodies. Mr. Benson asked if Commissioner Gunzburger is suggesting that that role be delimited.

Ms. Kaletta advised that the reason she this issue to move to the AGSC for discussion was so that the Committee could be mindful of the time.

**Commissioner Gunzburger:** Yes, that is exactly correct.

The Chair pointed out that the ordinance does not say just attorneys.

Mr. Benson stated that the reason he used attorneys for an example is because they tend to have the ability to go to different entities and bodies to plead the case or position of their clients. He stated that in some cases it may be before elected bodies or judges. Mr. Benson advised that he is suggesting that he is not sure he would want to get into the business of stopping them from making a living.

**Commissioner Gunzburger:** The City of Hollywood is not going to allow any elected official to represent a client there, no matter what level.

The Chair restated that motion and requested a roll call vote.

**Ms. Kaletta MOTIONED to refer the City of Hollywood Ordinance No. 0-2007-26 - “Code of Ethics” to the Administrative Issues/Governance Subcommittee, SECONDED by Mr. Benson.**

Commissioner Hayward Benson	<b>Yes</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Absent</b>
Mr. David Esack	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Ms. H.K. “Petey” Kaletta	<b>Yes</b>
Mr. Mark Ketcham	<b>Yes</b>
Dr. Mark Lieberman	<b>Absent</b>
Joseph Maus, Esq.	<b>No</b>
Commissioner Ted Mena	<b>Absent</b>
Mayor Lori Moseley, Chair	<b>Yes</b>
Burnadette Norris-Weeks, Esq.	<b>Yes</b>
Ms. Maggie Davidson	<b>Yes</b>
Commissioner Hazelle Rogers	<b>Yes</b>

Bruce Rogow, Esq.	<b>Yes</b>
Dr. Irv Rosenbaum	<b>Yes</b>
Ms. Jodi Jeffreys-Tanner	<b>Yes</b>
Mr. Wil Trower	<b>Yes</b>
Richard Weiss, Esq.	<b>Yes</b>

**Motion PASSED on a roll call vote of 14 YES to 1 NO.**

**Mr. Norris-Weeks MOTIONED that the Administrative Issues/Governance Subcommittee addresses the issue of lobbying in general to see whether or not the County Ordinance lends itself anything that could work nicely within the Charter, SECONDED by Ms. Tanner.**

Dr. Rosenbaum advised that he is concerned with the timeframe and adding another issue. He reminded the Commission that there are a lot of things that have not been addressed because the nature of the timetable of the Charter. Dr. Rosenbaum stated for the record that he would like to address the timeframe issue later. Ms. Rogers agreed with Dr. Rosenbaum.

The Chair called for the roll call vote.

Commissioner Hayward Benson	<b>Yes</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Absent</b>
Mr. David Esack	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Ms. H.K. "Petey" Kaletta	<b>Yes</b>
Mr. Mark Ketcham	<b>Yes</b>
Dr. Mark Lieberman	<b>Absent</b>
Joseph Maus, Esq.	<b>Yes</b>
Commissioner Ted Mena	<b>Absent</b>
Mayor Lori Moseley, Chair	<b>No</b>
Burnadette Norris-Weeks, Esq.	<b>Yes</b>
Ms. Maggie Davidson	<b>Yes</b>
Commissioner Hazelle Rogers	<b>Yes</b>
Bruce Rogow, Esq.	<b>Absent</b>
Dr. Irv Rosenbaum	<b>Yes</b>
Ms. Jodi Jeffreys-Tanner	<b>Yes</b>
Mr. Wil Trower	<b>Yes</b>

Richard Weiss, Esq.

**No**

**Motion PASSED on a roll call vote of 12 YES to 2 NO.**

The Chair called for public comment.

## **VI. Public Comment Related to the Administrative Issues/Governance Subcommittee – Recommendations**

### **Kareen Boutros – Broward Workshop**

**Ms. Boutros:** Good afternoon, my name is Kareen Boutros; I am with the Broward Workshop. I was just wondering, Madam Chair, when you would entertain the idea discussing an Elected Mayor. The Broward Workshop has sent out, as you have received, exhibit papers and we would like this group to discuss the issue of *adding two additional Commissioners at-Large to the Commission which would be 11 seats and one of them is an Elected Mayor with a four (4) year term*. They would have the same powers that the current Charter gives them, but they would be elected by the citizens of Broward County, and we would like you to take up this issue.

Mr. Rogow advised that he represented the pack that put the Strong Mayor on the ballot in Miami-Dade County, Carlos Alvarez. Mr. Rogow asked Ms. Boutros why she thinks the County needs this.

**Ms. Boutros:** Well the members of the Broward Workshop feel that there needs to be more of a balance in the current form of government that we have. We have 9 district Commissioners. There seems to be quite a bit of parochialism, and we feel that if you add 2 At-Large seats you would give the citizens a balance. You would have more fair representation and you would have somebody who is accountable to citizens and more regional within the County, a regional view for these massive issues that are facing our community: Transportation, Health Care, and Environmental issues. We need somebody who is going to stand up and be representing the community and be elected County-wide and not just focus mainly on their particular district.

Mr. Rogow asked Ms. Boutros for examples of parochialism.

**Ms. Boutros:** One specific issue that our group has been very involved in is the expansion of the Airport and South Runway. There have been certain Commissioners whose districts are in that area, who has delayed, put up roadblocks, stalled, and created many different obstructions which cost us several hundreds of millions of dollars. There are many other instances, but I think even without specific instances the citizens perceive that there is no real leader.

The Mayor just had a Transportation Summit last week. Three hundred (300) people were sitting in the room and the 3 main things that came up, (#1) being we need leadership. That is pretty telling of citizenry.

We did a Public Opinion Poll with a national firm that we did send you all some of the results and the citizens seem to be in favor of somebody to take leadership and to at least give them a 4-year term so that they can build some consensus and give some time to lead these issues. It is true that the Commission does do a goal setting every year, maybe even twice a year, but if the rotation of the ceremonial Mayor is every year, that does not give you an opportunity to at least even accomplish some goals or build any momentum. Perfect example is the Transportation Summit. It is a great idea that Mayor Eggelton is doing, but it is October and I believe Commissioner Wexler is going to be the Mayor in December or January and that might not be her focus. We have seen it in the last several years, each of the Mayor's have had great initiatives but they have not really done anything specific to move us in that direction, because next year another Mayor comes in.

So it is our belief that we need at least the perception of a leader, somebody to move us in that direction and make the hard decisions that this community is facing, a lot of issues, such as Affordable Housing, Transit, Environmental issues, and also we have a County to the South of us that has a Strong Mayor. *We don't necessarily want a Strong Mayor; we just want an accountable Mayor.*

I believe that the Charter Review Commission in 2002 gave the powers to this Mayor we just want the citizens to be able to vote for this particular person. Let us choose who this person is going to be, and give them a 4-year opportunity to prove themselves. If we've made a bad decision well then we will vote them out. But give us the opportunity, the citizens the opportunity to choose our leader. It's only fair.

Ms. Kaletta advised that she spoke with the League of Women Voters and passed out a questionnaire which asked "Do you think there should be a Mayor elected County-wide?" She advised that the unanimous answer was yes. Ms. Kaletta stated that the questionnaire also asked "if there should be more than one Commissioner elected County-wide;" she advised all were in favor with the exception of one person saying no; everyone else said yes. Ms. Kaletta also advised that the last question was "how long do you think a County-wide elected Mayor should be in office" and that was all over the fence. There were a few that said strong, but 4 year term was a critical with all of them. Ms. Kaletta stated that one person even said, "That position, but don't call them a Mayor." Ms. Kaletta explained that a Mayor is a city to most people, not over a County. She suggested that the CRC take interest in this particular issue.

**Ms. Boutros:** I just wanted to say one more thing. There are 2 other points some people would like to bring up – I mean have lived in Broward County since 1971; I am almost native and I have a strong love for this community. When it comes to the diversity in our community and the various different groups, this would not dilute any type of minority representation. In fact I think it would help. Right now you only

have one representative of the 9 that you vote for. Well what if you work in a different district and your kids go to school in a different district? If you had the opportunity to vote for 2 additional people and an At-Large seat that gives you the possibility of having at least maybe 3 people that you can advocate to if you have a particular issue that you need to talk about in the County. The other thing would be that if people think that adding 2 additional seats might be more expensive or costly. Well, we have lost several millions of dollars worth of federal funds because we can't get our act together in many different areas in this community. So I think we have lost more than it would cost us to have these additional people; so I just really encourage you to please take a look at this and don't let all this hard work that you have done go to waste. We really need some leadership in this community.

Mr. Ketcham advised that this issue was sent to the AGSC and no recommendation was made.

Mr. Weiss advised that the AGSC had a full discussion and it was determined that the recommendation was to change nothing. He added that the AGSC voted numerous times not to recommend change to this section.

Mr. Ketcham inquired about the voting; he asked if it was unanimous.

Mr. Esack asked Ms. Boutros who paid for the opinion poll conducted. He stated that wording is very important and sometimes questionnaires and opinion polls can be misleading in terms of the way the question is asked. He added that he is concerned with the way the questions were asked.

**Ms. Boutros:** The Broward Workshop is a non-profit organization and we pay for it ourselves as a public service to this community. We felt that people needed information.

Mr. Benson asked i whether the County Commission meets in a goal setting session sometimes during the year when it establishes the goals and objectives which becomes the Work Plan.

**Mr. Goren:** Yes. It is in the Charter they meet once a year.

Mr. Trower advised that there have been 5 proposed alternatives. He added that he has attended 2 of the AGSC meetings wherein there was a lot of discussion and debate about the various alternatives. He stated that from his recollection all of the alternatives failed and/or deadlock votes. He added that he was under the impression that the issue would come back to the full Commission for discussion and review.

Ms. Kaletta advised that there were various proposals but the subcommittee could not agree on the finalities of the direction of the issue. She advised that she brought the small survey up simply because

she wanted to find out how people felt about it. Ms. Kaletta advised that she believes it should be considered because it can do nothing but make Broward County better.

The Chair stated for clarification if it chooses to send the issue back to the subcommittee, she advised that there are so many different options that there would never be a majority.

Mr. Weiss advised that he does not believe that this issue should be decided based upon a technicality. He added that he believes this is an issue that ultimately the CRC has to face. He stated that he has heard hours of conversation and does not wish to keep going over the same things over and over again. Mr. Weiss added that if there are not 10 people who would vote for some type of adjustment to the powers of the Mayor. Mr. Weiss stated that this issue requires so much work; he advised that he would not vote for any adjustments to the powers or duties of the Mayor.

**Mr. Weiss MOTIONED that any discussion of adjusting the powers of the Mayor be concluded, SECONDED by Ms. Good.**

Mr. Trower advised that there were 10 votes already to take this issue up at the Committee.

Mr. Weiss advised that there was no consensus to bring anything forward.

Mr. Trower advised that he believes that the AGSC should have a complete discussion on why there was not a consensus to bring anything forward. He added that it is a significant issue in the community as well as among the Committee members. Mr. Trower suggested having a vote to have this issue continue to be looked at.

The Chair stated that whether it is the pleasure of the majority to have this item as the 1st item on the next agenda and to have a full-blown conversation about Elected Mayor. She advised that if there are 10 people who would like to have that conversation then it would be allowed.

Mr. Trower inquired about Mr. Buckner's proposal for a Better Broward. Ms. West advised that Mr. Buckner could not make the meeting due to a family matter. Mr. Trower suggested hearing Mr. Buckner's proposed resolution before making any final decisions.

Mr. Rogow advised that he will vote against Mr. Weiss' motion, because he believes that the issue should be aired by the full Charter Review Commission. He stated that he does not think it should go back to the subcommittee but be aired by the full CRC.

Ms. Good stated that everyone should be prepared that when other subcommittees have things that don't move forward, they will come back before the full Commission. Ms. Good explained that the AGSC subcommittee had lengthy discussions with various individuals and regardless of the outcome she advised she will support whatever the full body wants to do. But she cautioned that everyone should understand if this is done for the AGSC for this particular topic then the full CRC should be prepared to do the same for other subcommittees and other topics.

Ms. Good advised that the other issue she has is how is it that one of the members from the full body is bringing forth a resolution on the Mayor issue and why it is being brought back to the full body and not back to the subcommittee. She stated that she did not know that individual members could do such a thing.

The Chair advised that this was going to be her question before the proposal was made because she didn't understand either. The Chair advised that Ms. West only puts on the agenda what is there.

Ms. West responded that if the CRC receives correspondence, that she has no other choice than to bring it to the full CRC. Ms. West informed the Commission that the letter is addressed to the Chair; therefore, it had to be brought forward and it has not been addressed by the Commission.

Ms. Tanner advised that this has happened numerous of times. The Chair asked Ms. West if the subcommittee went over the letter. Ms. West replied no because they stopped meeting [3:50:47].

Mr. Benson agreed with Ms. Good.

Ms. Kaletta asked the Commission if they are saying what the subcommittee decides should be rubberstamped by the full Commission. She reminded the Commission that they have torn apart the proposals that have been brought forward as they've done this same thing today. Ms. Kaletta asked the Commission how they can say that it is the charge of the subcommittee to do something and they want to be able to take apart a proposed resolution but if a subcommittee says they don't want to do anything the Commission leaves it alone. Ms. Kaletta stated that this does not wash and she advised that the process should go both ways on it.

Mr. Esack informed that AGSC reviewed several different models, none of which gained a majority vote.

Mr. Weiss asked Mr. Goren how many people it takes to not put something on the ballot.

**Mr. Goren:** It takes 10 to talk about an item, and it takes 13 to get on the ballot itself.

Mr. Weiss explained that he is suggesting that if there are 7 people who feel strongly that their minds are not going to be changed then the issues should be done with because it is not going on the ballot.

The Chair asked Mr. Goren to state the language of the actual motion.

**Mr. Goren:** The motion is not to adjust the powers or the method of election of the Mayor.

**Mr. Weiss MOTIONED not to adjust the powers or the method of the election of the Mayor, SECONDED by Ms. Good.**

The Chair called for public comment.

**Mr. Dan Glickman**

I will be as brief as possible. First of all with all due respect for Mr. Weiss – when he says the powers and then the election not be changed. Their request is merely to have you consider simply whether or not those two positions should be elected on a County-wide basis. That is all they're asking for.

The Chair advised Mr. Glickman that this is not Mr. Weiss' motion.

**Mr. Glickman:** That is what the vote should be whether or not their proposal ever came forth and was directly voted on – I don't know the answer to that. My last comment – you're considering *regional* for the MTA; you are considering *regional* for this issue you've discussed today. The point is really very simple; when you have two transit developments coming along the FEC which is going to be a billion dollars for Broward County alone, or you have the Central Broward East-West coming along you are going to have district members voting. We should have some way of saying let's go above the fray and let's have At-Large membership. I am in favor of having 2 At-Large Commissioners and I am willing to call them Mayor and Vice-Mayor.

The Chair called for any other public comment.

**Robin Rorapaugh – Public Comment**

My name is Robin Rorapaugh; I am a resident of Hollywood Florida. I am here with the Broward Workshop also. One of the things that our membership has been working towards – I know in my Neighborhood Association what people have been talking about is they do want an opportunity to try to elect a Mayor. We are simply asking that – that becomes a point of discussion for the group as a whole. The subcommittee did a lot of work and I have been to 4 of those meetings and it was a lot of work but

most of the discussion was based around changing the make-up of the County Commission moving it to 5:4, various different things. Ultimately electing a Mayor was talked around but not talked about. This may not be the appropriate day for this discussion, regarding Michael Buckner's proposal, but if he's doing a presentation, it'll wait.

The Chair stated that this is a whole other issue as the Commission is not even sure that Mr. Buckner should be making one.

**Ms. Rorapaugh:** At this point, after the presentation of the subcommittee and their recommendations the question is still out there in the public's mind. This specific recommendation has not been brought before the subcommittee and has not been brought before the committee as a whole, but the issue of an elected Mayor also ultimately has not been voted for by the committee as a whole either. I think some of the subcommittee members thought it would come before the full Commission eventually and that was the question we had, when would that time be appropriate.

The Chair again asked Mr. Goren to read Mr. Weiss motion.

**Mr. Goren:** The motion by Mr. Weiss and seconded is not to adjust the powers or the method of election of the Mayor.

The Chair advised that a yes means not to go any further.

**Mr. Goren:** Yes, that's legally correct.

**Mr. Weiss MOTIONED not to adjust the powers or the method of election of the Mayor, SECONDED by Ms. Good.**

Commissioner Hayward Benson	<b>Yes</b>
Michael Buckner, Esq.	<b>Absent</b>
Mayor Debby Eisinger	<b>Absent</b>
Mr. David Esack	<b>Yes</b>
Ms. Patricia Good	<b>Yes</b>
Ms. H.K. "Petey" Kaletta	<b>No</b>
Mr. Mark Ketcham	<b>Yes</b>
Dr. Mark Lieberman	<b>Absent</b>
Joseph Maus, Esq.	<b>No</b>
Commissioner Ted Mena	<b>Absent</b>

Mayor Lori Moseley, Chair	<b>No</b>
Burnadette Norris-Weeks, Esq.	<b>No</b>
Ms. Maggie Davidson	<b>No</b>
Commissioner Hazelle Rogers	<b>No</b>
Bruce Rogow, Esq.	<b>No</b>
Dr. Irv Rosenbaum	<b>No</b>
Ms. Jodi Jeffreys-Tanner	<b>No</b>
Mr. Wil Trower	<b>No</b>
Richard Weiss, Esq.	<b>Yes</b>

**Motion FAILED on a roll call vote of 5 YES to 10 NO.**

**Next Meeting**

The Chair advised that the next full Charter Review Commission will take place on December 12, 2007.

Ms. Kaletta recommended Commission members refrain from long-winded opinions at future meetings.

**VIII. Michael Buckner, Esq. “Better Broward Proposal”**

Tabled to the next meeting.

**IX. New Business**

1. **“And via the internet” – Mr. Mark Ketcham – Tabled to the next meeting.**

**X. Public Comment**

The Chair confirmed that no one was missed for public comment since comments were taken throughout the meeting.

**XI. Adjournment**

There being no further discussion the meeting was adjourned at 4:01 p.m. The minutes of this meeting are recorded on CD # 10.24.07 (BCGV CTR)