

## CHARTER REVIEW COMMISSION MINUTES

The Charter Review Commission met in session at 3:00 p.m. on Thursday, January 7, 2016, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida, Bldg. "C", 3rd Floor, Florida Room.

Kendall Moore - Chairman Moore called the meeting to order at 3:00 p.m., and he asked Mr. Adams to lead us in the Pledge of Allegiance.

### Board members present:

Mr. Kendall Moore, Chairman, District 1  
Dr. Ron Bobay, District 1  
Maureen Rupe, District 1  
Mr. Chuck Nelson, Vice Chairman, District 2  
Mr. Henry Minneboo, District 2  
Mr. Cole Oliver, District 2  
Mr. James Rosasco, District 3  
Mr. Dale Young, District 3  
Matthew Nye, District 3  
Mr. Tom Jenkins, District 4  
Mr. Marty Adams, District 4  
Mr. Peter Fuscas, District 4  
Mr. Jack Ryals, District 5

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

Staff members present: Wade Vose, CRC Attorney  
Sandy Smith, Administrative Secretary

Kendall Moore - Chairman Moore asked if there was anyone in the audience who wanted to introduce themselves into the record.

Dave Pasley – Mr. Pasley introduced himself into the record.

John and Pam LaSalle – Mr. LaSalle introduced himself and his wife Pam into the record.

Chairman Moore stated he will go to Item II on the agenda which are the minutes of the November 12, 2015 meeting. He said the Board was provided electronic copies of the draft minutes and he asked the pleasure of the Board.

Dr. Ron Bobay – Dr. Bobay stated he had a few corrections to the minutes which he stated for the record. He made a motion to approve the minutes of the November 12, 2015 Charter Review Commission meeting as amended.

James Rosasco – Mr. Rosasco said he would second the motion.

Kendall Moore – Chairman Moore asked for discussion on the motion. He said in seeing none, he asked all those in favor of the motion to please signify by raising your right hand, those opposed by the same. Chairman Moore stated the motion for approval of the November 12, 2015 minutes as amended passes unanimously.

Chairman Moore stated that there are no guest speakers, or proposals for the January 13<sup>th</sup> meeting, and he suggested canceling this meeting.

Jack Ryals – Mr. Ryals made a motion to cancel the January 13, 2016, meeting.

Matthew Nye – Mr. Nye seconded the motion.

Kendall Moore – Chairman Moore asked for discussion on the motion as stated. He said in hearing none, he noted all those in favor of the motion to cancel the January 13, 2016, meeting to raise their right hand, all opposed by the same. Chairman Moore stated the motion passes unanimously. He asked Ms. Smith to notify Sally Lewis at the County Manager's office to advertise the cancellation of the Charter Review Commission, on January 13, 2016, to post a cancellation notice of the January 13, 2016, meeting on the County Webpage, post a meeting cancellation notice on the Florida Room door on the day of the meeting, and to electronically notify the CRC of the cancellation of the January 13, 2016 meeting.

Chairman Moore stated he will now go to Item III on the agenda, which is the Chairman's report. He advised that Scott Ellis, Brevard County Clerk of the Circuit Court will be heard under New Business to allow sufficient time for his presentation. Mr. Moore advised that we have received confirmation from Lisa Cullen, Brevard County Tax Collector to come and present to the Commission at the January 28, 2016 meeting. He stated that Martha Haney, Orange County Comptroller has requested a list of questions from the Commission they want addressed by her prior to committing to a specific date she can come and present to the Board.

Chairman Moore said we have been asked about why some of the things we had discussed were not re-occurring on our agenda under Old Business. He stated those things will not reoccur unless they are presented in the form of a proposal. He asked if the Board had any thoughts, ideas or concerns about this. Chairman Moore recognized Mr. Rosasco.

James Rosasco – Mr. Rosasco stated he is not prepared to submit his proposal as yet. He said he is doing his research and background work and he wanted to hear from Mr. Ellis, Ms. Cullen and also the Orange County people before submitting his proposal.

Kendall Moore – Chairman Moore recognized Dr. Bobay.

Dr. Ron Bobay – Dr. Bobay said just by matter of update, one of the proposals had to do with the School Board taking responsibility for impact fees. He stated that he is not feeling any urgency, but he understood that was a specific proposal Attorney Vose was researching. Dr. Bobay said we've had an item on the 3% or Consumer Price Index and he understood Mr. Vose was also going to come back and give the Board his legal opinion about the constitutionality of the provision. He stated that he doesn't know if we are going to get an update today, or whether that is coming at a later date.

Attorney Wade Vose – Mr. Vose said he will address the 3% tax cap first. He stated that he anticipates prior to the meeting on January 28<sup>th</sup>, providing the Board with a memorandum of his legal opinion on the constitutionality and legality of the current provision of the Charter. He said it will include what, if anything, this Charter Review Commission can do about it based on what his findings are. Mr. Vose said that because it is a topic of substantial weight, he wants to give the Commission a chance to be able to digest his findings, as opposed to dropping that on you the day before the meeting. Mr. Vose stated he anticipates having that out to the Board, Staff and members of the public on or before January 21<sup>st</sup>, which is a week prior to the meeting on January 28<sup>th</sup>. Mr. Vose said with regard to the impact fee question, he has had that on his plate for research, but he wanted to ask for some direction, and perhaps some narrowing with regard to that issue. He stated he thinks he provided some initial thoughts on this subject and he had some legal concerns with giving the power over, to the School Board to impose impact fees and set them. Mr. Vose advised that the ability to impose impact fees is a function of the general government of the city or county's sovereignty to enable that. He said that the School Board does not have those Home Rule powers in the same way. Mr. Vose stated to approximate the same result however, it may be fruitful to look at what the larger counties in Florida do with regard to this, and yet gets to the same place relative to impact fees. He said the School Board states their need and they run it through the appropriate process. Mr. Vose stated that his thought had been to look at that for you, assemble the information on what the larger counties, and counties of approximately the same size as Brevard

County are doing in that regard, and then providing the Board with those different options. He added that potentially if that is something of interest to the Commission, maybe it is something that could be implemented through the Charter. He asked Dr. Bobay if this made sense from his standpoint.

Dr. Ron Bobay – Dr. Bobay stated he is not feeling an urgency other than to get a sense of when he is likely to come back to the Board with his legal opinion.

Attorney Wade Vose – Mr. Vose said he may be able to have something back to you on that by the 28<sup>th</sup> as well, probably not a week beforehand, but prior to that meeting, if not, it will be the meeting after that.

Kendall Moore – Chairman Moore stated that they will be happy to add those items to the agenda, keeping in mind that the scheduling window is 10 days out for the submission of proposals, and 7 days prior to the meeting to get that information to you so you have an opportunity to review the agenda package. He recognized Mr. Jenkins.

Tom Jenkins – Mr. Jenkins said in reference to his comments about scheduling. He stated that part of our basis to manage the times of our meeting, he thinks it would be wise to separate Haney and Cullen to different days to give them each ample time for their presentations, otherwise it might make for a very long meeting. Mr. Jenkins said the second issue he wanted to bring up was the minutes. He stated that it is obvious that it is difficult to keep up with the minutes because we are doing verbatim minutes. If we could get to some middle ground between summary minutes and verbatim minutes, it might make it more realistic for our staff because he is sure this is extremely time consuming.

Kendall Moore - Chairman Moore stated he is certain that Ms. Smith would appreciate cutting that task down; however, the summary part is the dangerous part, because you are asking her to summarize what you said. Chairman Moore said the last time we sat at this table 6 years ago, everyone was always saying, Elena that is not what I said. Chairman Moore stated he would prefer either action item minutes or.....

Tom Jenkins – Mr. Jenkins said when he said summary minutes, that is what he was referring to – action item minutes.

Kendall Moore - Chairman Moore recognized Ms. Rupe.

Maureen Rupe – Ms. Rupe asked if there was any verbatim anywhere – do we have a recording of the meeting.

Kendall Moore - Chairman Moore said yes, the audio recording is the actual record.

Maureen Rupe – Ms. Rupe said if we can get a copy of the recording if we want to, then that is fine.

Dr. Ron Bobay – Dr. Bobay stated that his inclination would be to have more abbreviated minutes, but if we had a recording of the proceedings in the event there were questions, then could always ask that a transcript be produced. He said in an effort to facilitate the minutes, this would make sense to him and he would agree with Mr. Jenkins that something in the middle would be helpful.

Kendall Moore - Chairman Moore asked if anyone would like to make a motion in that regard. He recognized Mr. Rosasco.

James Rosasco – Mr. Rosasco said he thought we've discussed and voted on this already.

Kendall Moore - Chairman Moore stated that we did, and the product that we have today, was the direction given by this Board. He stated that ultimately if you think about the direction that we've gone, we taken very little action, and so action item minutes would probably be summarized in about a half a page per meeting.

James Rosasco – Mr. Rosasco said that is his concern, that we wouldn't have much in the way of minutes as we're not taking a whole lot of action.

Kendall Moore - Chairman Moore recognized Mr. Jenkins, and then Ms. Rupe.

Tom Jenkins – Mr. Jenkins stated that Ms. Smith can't keep up with the verbatim minutes, as she is working on November, so what good are the minutes when they are so far behind.. He added that he is not saying this to be critical of Sandy, but he can only imagine how time consuming it is to do verbatim minutes.

James Rosasco – Mr. Rosasco stated he agrees with Dr. Bobay, if there is an audio record, then he wouldn't be as concerned, but he certainly wants some sort of record where we can verify what action was taken.

Kendall Moore - Chairman Moore said the audio record does exist, but what Ms. Smith was referring to was the availability of that for public access through the website.

Sandy Smith – Ms. Smith stated that she had spoken to IT, and back in 2009-2010 they had the ability to post the audio files on the website; however, since that time they replaced their server, and the software can handle video files, but not audio files. She

said she can copy the audio files to a disc in just a matter of minutes for anyone who wants or needs a copy of a meeting.

Kendall Moore - Chairman Moore stated we have had requests for those previously. He recognized Ms. Rupe.

Maureen Rupe – Ms. Rupe said she was just about to ask if she could bring her own recorder to record the meetings.

Kendall Moore - Chairman Moore asked Mr. Vose to address that.

Attorney Wade Vose – Mr. Vose stated that in a public meeting, it is permissible to audio or video tape a meeting, but it would be just as easy to get a CD from Ms. Smith.

Tom Jenkins – Mr. Jenkins said for the sake of discussion, he would move that we go to action item minutes with audio copies available for anyone who would like it.

Dr. Ron Bobay – Dr. Bobay stated he will second the motion.

Kendall Moore - Chairman Moore asked for discussion on the motion. He said in seeing none, he asked all those in favor of the motion to please signify by raising your right hand, those opposed by the same. Mr. Moore stated motion passes by a vote of 10 to 3. Those opposed to the motion were James Rosasco, Matt Nye, and Marty Adams.

Kendall Moore – Chairman Moore said he will move to Item IV on the agenda which is a report by Mr. Vose. He asked Mr. Vose if there was anything else he wanted to cover.

Attorney Wade Vose – Mr. Vose stated that he gave Commissioner Rosasco a call today just to confirm if there was any additional information relating to the Orange County Comptroller that he needed, and he indicated he had none that he could recall. He said the factual information that you were looking for, you will get from Comptroller Haynie with regard to how things work in Orange County. Mr. Vose with regard to the other two pending legal matters, he thinks he has gotten the guidance he needed, and he has given you the report on those two things.

Kendall Moore – Chairman Moore asked if there were any other questions for Mr. Vose on that topic and others. He said since there are none, he will move onto New Business.

Tom Jenkins – Mr. Jenkins asked the Chairman if he was going to consider separating those two guest speakers.

Kendall Moore – Chairman Moore said he will ask Mr. Rosasco if he wanted to consider that since we have set the meetings for a two hour limitation. He asked Mr. Rosasco if he thinks it would be prudent to separate the two speakers since he requested these guest speakers.

James Rosasco – Mr. Rosasco stated he doesn't really think it will require more than a half hour to 45 minutes per speaker. He said he does not have that many questions, so he would think we could accommodate them both within that 2 hour window.

Sandy Smith – Ms. Smith said she had received confirmation from Ms. Cullen to come and present at the meeting on January 28<sup>th</sup>, and she requested to have the equipment set up for her presentation; however, she did not indicate how much time would be required for the presentation. Martha Haynie, Orange County Comptroller has not confirmed as to what date she could come and present to the Commission. She requested a list of questions from the Commission they want her to address.

Kendall Moore - Chairman Moore said he thinks he is going to take the risk that we can squeeze both presentations within 2 hours or less. He stated that if the Board could send the questions for Ms. Haynie to Ms. Smith by next Thursday, this would provide a two week window for her to prepare for her presentation. Mr. Moore recognized Peter Fusscas.

Peter Fusscas – Mr. Fusscas asked Mr. Rosasco if he had a copy of the duties, responsibilities and qualifications for the Orange County Comptroller.

James Rosasco – Mr. Rosasco said no, he does not.

Attorney Wade Vose – Mr. Vose said he thinks that would be a primary question, to ask the Comptroller to enumerate what functions she serves. He added that this is enumerated in the Special Act he provided to the Commission, which says which jobs go to the Orange County Clerk and which went to the Comptroller. Mr. Vose said that in practice, that is very much elaborated in how they handle things day to day, and he thinks Ms. Haynie's office would be best to give you the particulars on that and answer in detail.

James Rosasco – Mr. Rosasco said if he remembers correctly, the statute was basically six or seven words going back and forth, and there was really no definition. He stated with Mr. Ellis coming up, he is concerned about staff, how much time they

spend, the costs, legal reviews, funds it comes out of – those types of mechanical questions is what he is concerned about.

Kendall Moore – Chairman Moore asked if the Board had any other questions that need to be passed onto Ms. Haynie at this time. He reminded the Board that the sooner we get the questions for her, the better to provide the opportunity for her thorough review and response.

Chairman Moore said he will move onto Item V - New Business on the agenda. He stated that Mr. Ellis is here from the Clerk's Office, at the request of Mr. Rosasco. Chairman Moore said out of respect for Mr. Ellis, because the last time he was here, there were a series of fairly detailed questions, and he was under the Public Comment portion of the agenda which limited his time. Chairman Moore said he has moved Mr. Ellis to New Business on the agenda, so that he can have a timeless discussion relative to any issues of concern, both for himself, and this Board. He asked Mr. Ellis to begin his presentation.

Scott Ellis, Clerk of the Circuit Court - Scott Ellis stated he is Clerk of the Circuit Court, and in 1998, Article 5 was passed and it went to State funding in the Courts, so prior to 2004, most of the Clerk's Office was funded through the County. He said beginning in 2004, most of that expense passed to the State, and currently the Clerk's Office, roughly 10% of their budget is funded by the Board, the rest of the money is either from the State or is coming from recording fees. Mr. Ellis said they receive about 2 million dollars a year from the Board, roughly 10% of their budget. He stated that since 2009 the State has reduced them by 25%, on the Court side and they have gone from 17.4 to 13.1 million. Mr. Ellis said they survived this primarily by going to electronic filing, and the internet so people don't come into the office for the information, it is there – take it for free. He stated at one time they had 28 people in the phone room, and they now have 12, so it is important for the people to get the information from the internet themselves as he no longer has the staffing. Mr. Ellis said the Court side is still the bigger part of their office; however, it is not funded as it was years ago. He stated that the County side has been roughly the same – they started going downhill, probably in 2007-2008, more so as duties from SAP got pushed down into the County departments. The individual bookkeepers within the County departments had to start using SAP to enter data that the Clerk's office used to enter, therefore they reduced staff. Mr. Ellis said their accounts payable staff used to be 14-15 people and now it is maybe 8. He said these are the changes over time, which is where are today. Mr. Ellis stated what he had recommended, which goes back to the prior Charter Review on the Comptroller issue, was to create the Comptroller position by merging that with the Tax Collector. He said the Tax Collector would become the Comptroller, and County Finance would move from underneath the Clerk's Office to the Tax Collector's Office, that way you didn't create another elected position, you simply increased the

power of the Tax Collector. Mr. Ellis stated that the Tax Collector has their own source of revenue coming in and they generally return well over 2 million dollars a year to the Board, so therefore they would not have their budget threatened by the Commission. He said for example, he comes in as Clerk, and the first thing that happens is the Internal Budget is zeroed out from the Board. The Tax Collector to the Board cannot do that, if the Comptroller is under the Tax Collector, they can piss and moan all they want about the Tax Collector/Comptroller – they get the money first, the Board will not be able to come through and reduce their funding to reduce their effectiveness. Mr. Ellis stated that a big thing on having a Comptroller, and this doesn't matter where it is, you get everybody under one financial system. He said this is a problem that we've had, so for example SAP is the County's financial system, the Clerk and the Supervisor of Elections is on SAP; however, the Sheriff, Property Appraiser and Tax Collector have their own financial systems. Mr. Ellis stated that his belief is if you get a Comptroller, and you put all the different agencies underneath the same financial system, you have uniformity. He said the Comptroller would then be empowered to audit all offices, and this is where this got blown out in 2010. Mr. Ellis stated that he is a firm believer that if the County is paying for the office, they should be able to audit where the money goes. He said he as always offered the Clerk's Office – if you want to audit, come in and do it as long as you pay for it. Mr. Ellis stated the Comptroller should be able to come in and audit the Sheriff, Property Appraiser, Clerk, all constitutional officers should be subject to financial audit by the Comptroller. He added that the Board appropriates the money, it is only reasonable the Board can find out where the money went, and quite truthfully, that has not been followed up on for years. Mr. Ellis stated that this is just a rough overview of how it is set up today, and what we looked at in 2010.

Kendall Moore – Chairman Moore asked if the Board had any questions for Mr. Ellis. He recognized Mr. Rosasco.

James Rosasco – Mr. Rosasco said you mentioned about 8 people in accounts payable, is that the extent of the financial services staff?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated, no not at all, that is just simply accounts payable. You also have all the fund accountants, so for example, lets say you are the Solid Waste Department, at the end of the year; we're going to have all the books balanced to ensure all the money is in the right places for Solid Waste. Mr. Ellis said accounts payable is a day to day operation – now you are in Solid Waste and you need another tractor for the Landfill, so you do a purchase order for the tractor. He stated you then send that to the Clerk, they verify that you have requested, is an approved vendor by the County, and that you are using a Solid Waste fund number. Mr. Ellis said most of the disagreements that we have between accounts payable and the County – and it is generally because a number has been transposed, which will

result to an incorrect account being charged. He stated perhaps it's a vendor they have to get approval for – this is accounts payable – it is a day to day function. Mr. Ellis said there are also purchase cards, travel – all those issues that go through their office, as well as payroll. Mr. Ellis stated that all the County Departments will send their payroll up, and they send the checks out. He added that accounts payable is smaller because quite truthfully a lot of those duties are now done at the department level, and it wasn't done that way 15 years ago. Mr. Ellis advised that SAP has enabled access to the Departments, so they can enter data and move the purchase order up to them. He said that fund accounts have the responsibility to make sure all the different departments balance.

James Rosasco – Mr. Rosasco stated that the function that they serve is to make sure it is a legal purchase, correct?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes, that is correct.

James Rosasco – Mr. Rosasco stated that they also make sure the funds are coming out of the correct fund.....

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that this is what makes it a legal or illegal purchase. He said Park referendum money cannot be used to purchase a tractor in Solid Waste. He said this is a check and balance system; however, he won't say that there is never a true dispute – probably one of the issues that has been the most disputable – the Board sets policy, and that policy is that items over 100 thousand dollars are supposed to go before the Board. Mr. Ellis stated that they have been back and forth enforcing that policy. He said their position is that you cannot do a capital improvements plan at the beginning of the year, which has all kinds of money in it, and then using that as your approval to spend money all through the year without going back to the Commission again. Mr. Ellis stated that the last big one was the ladder trucks – in 2009 an agenda item was passed to buy a million dollar ladder truck for the Fire Department, and using the 2009 agenda item, the Fire Department and the County Manager continued to buy one every year after that without going back before the Board on the expenditure. He said their position is that if it is over 100 thousand dollars, then it must go before the Board for approval, regardless of whether it's in the CIP or not, it is supposed to be approved by the Board. Mr. Ellis noted that other counties are worse, in – Collier County there has been a big dispute with the Clerk – they are pushing everything in front of the Board. He said when he was a Commissioner and Mr. Jenkins was the County Manager, the threshold was either 25 or 50 thousand dollars; and now is 100 thousand dollars, and he thinks that is very reasonable to be enforced. Mr. Ellis stated that if you are a County Commissioner and you vote on a capital improvements plan, you don't necessarily remember everything that is in there. He said you might like to know when all of a sudden two or three

million dollars gets spent on certain items, you may have missed that in the CIP. Mr. Ellis advised that it can go through a consent agenda item; therefore it is up to each Commissioner if they want to discuss it, but it needs to be on the agenda.

James Rosasco – Mr. Rosasco thanked Mr. Ellis.

Kendall Moore – Chairman Moore recognized Dr. Bobay.

Dr. Ron Bobay – Dr. Bobay asked Mr. Ellis if he does any independent audits of the Constitutional Officers.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis replied, no he does not. He said in fact the Board doesn't either; however, the internal audit function was taken back by the Board, and they have contracted internal auditors. Mr. Ellis stated that theoretically they could use those contracted internal auditors to do audits of the Constitutional Officers. He added that both he and Mr. Knox agree that it's not a big deal, but the Charter Officers thinks it is not allowed, and quite truthfully, you can do an audit using 119, Public Records request, if you have to. But they choose not to do so.

Dr. Ron Bobay – Dr. Bobay asked if the Constitutional Officers, to his knowledge, do an annual audit.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that everybody has a financial audit, but he says it's not the same as a real financial audit. He said a financial audit is that you are given one hundred million dollars and you spend one hundred million dollars; but a true audit is that you ask for twelve million dollars in capital, and he verifies that you spent twelve million dollars in capital. Mr. Ellis said if you ask for a certain amount of money for salary, he verifies that it was spent for salaries. If you came in and asked for a new computer system for 3 million dollars, they verify at the end of the year that the computer system was purchased, and that is not being done.

Dr. Ron Bobay – Dr. Bobay stated that you audit the County Commission – you have an auditing responsibility vested in the Statutes to audit the County Commission, correct?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis replied yes. They have the pre-audit function which is has gone through Finance, and they can do a post audit function, but he is not funded for it, therefore, they've had very limited post audit function over the years.

Dr. Ron Bobay – Dr. Bobay said he not sure he got the answer he was looking for, but it might be him not understanding what he is telling him. If the Clerk's Office decided to

do a similar audit to what the Constitutional Officers have to do, which is a financial audit, is that permissible?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that he is not sure what he means, because every office has an external financial audit. The same Berman and Shapiro Firm do the external audits of the Board, Sheriff, Clerk and all the different offices. The internal audit function which is controlled for the most part, by the Board, if they choose, they can go to Solid Waste and do an internal audit on them, and they are going to take a look at tipping fees, whether or not everybody is paying at the gate, and they are going to look at all the operations as to where the money goes.

Dr. Ron Bobay – Dr. Bobay said he will try to summarize this in his own words. Every one of the constitutional officers has a requirement for an external audit.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes.

Dr. Ron Bobay – Dr. Bobay said the County Commission has an internal audit function and they can determine how expansive that internal audit function is, including the Constitutional Offices.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis replied his belief is yes, and Mr. Knox had the same legal opinion. He added that they could do so, they don't but they could.

Dr. Ron Bobay – Dr. Bobay asked where is the criteria vested in what an appropriate internal audit should be?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated he is not sure what he means – adding that he is not a CPA, so he doesn't know if he is looking for some kind of a CPA term.

Dr. Ron Bobay – Dr. Bobay stated that you've indicated that internal audits typically have certain things that they look at, so what are the prevailing standards or whatever, for the what kind of internal audits should occur.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated you could do a compliance audit, if asked, – you could do a performance audit, or you can do a more detailed financial audit. He said for example, we went through this years ago with purchase cards. For example, Parks and Recreation had a card for purchasing items for Wickham Park; and there were items purchased with that card that had no business being purchased. Mr. Ellis said this was not Mr. Nelson's fault, but there was an audit on that purchase card, which revealed 3 thousand dollars in purchases, which was paid, but what were the details of the 3 thousand dollar purchases. He said this has been done for

cashiering; Solid Waste and a number of different County Departments where an internal audit was done. Mr. Ellis added that it has not been done with the Constitutional Officers. Mr. Ellis stated that issue was discussed years ago with Mike Mannigan and himself, on how to have better control on capital spending of the Charter Officers. He said as an example, if the Sheriff asked for 11 million dollars in capital, the Board would not just simply give him 11 million dollars, they would hold the 11 million dollars, and as it was used, they would bring the bill to the Board, and the Board would pay it. Mr. Ellis said this method would insure that when you request eleven million dollars in capital, eleven million dollars is spent in capital. He stated that there are controls in the Board Departments – if you want to move your spending around. Mr. Ellis said for example, if you are Solid Waste, and you need money for overtime because we've had a hurricane, you have the ability to do that within your budget, with Board approval once you go above a certain threshold. He added that you can do a budget change request and money can be moved. Mr. Ellis stated they don't necessarily know what the Charter Officers do with the money given, which also includes him. He said in theory, he could take the two million dollars he gets for County Finance, and he could blow a million dollars on something else, and they would never know.

Dr. Ron Bobay – Dr. Bobay stated his understanding is the County approves the budget, they issue purchase orders, and you hold the check book.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes, for County Departments that is correct.

Dr. Ron Bobay – Dr. Bobay asked if the Constitutional Officers have him hold the check book.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis replied no. If you are a Constitutional Officer – they give you the money – have a nice day. He said that is the thing – you would really like to know that the money went where it was supposed to. Mr. Ellis stated he is not saying there is anything wrong or right, but there should be a check and balance verification on the Charter Officers, the same as on the County Departments. He said there is a Budget Office that is looking at the County Departments which are authorized to spend so much on salaries, operating, and capital; however, there is no oversight with the Constitutional Officers.

Kendall Moore – Chairman Moore recognized Mr. Vose.

Attorney Wade Vose - Mr. Vose asked Mr. Ellis if he understood him correctly to say that you and Mr. Knox believe that the County does have the authority to audit Charter Officers.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated yes, there is an opinion from Mr. Knox that he believes the authority is there.

Attorney Wade Vose - Mr. Vose stated that the Charter Officers maintain the position that that authority does not exist, correct?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said the County has never tried it, so push has never come to shove in Court.

Attorney Wade Vose - Mr. Vose said he was just curious about the legal position given the fact that the Charter Officers are not independent constitutional officers.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said that was the sticking point with the last Charter Review Commission, it was over that whole issue. One guy came in and said I've got these 7 - 18 different people to audit me, but that is not the same as what the Commission wants to know, which is, I appropriated this amount of money to you and I want to know where it went. You told me this is where you wanted it to go, I would like to know by the end of the year where it really went – that's not being done. Mr. Ellis said he doesn't care if someone audits your evidence, the tax roll or if they count the number of tags in your office, what you are looking for is whether or not the appropriated money was spent for its intended use by the end of the year.

Kendall Moore – Chairman Moore recognized Mr. Jenkins.

Tom Jenkins – Mr. Jenkins said this is not a question, but it is a follow up on this specific subject. He stated that he believes from his recollection, that there are controls on Constitutional Officers transferring funds and it varies from Constitutional Officer to Constitutional Officer. Mr. Jenkins said for example, the Property Appraiser is accountable more to the Florida Department of Revenue than to the County Commissioners. He added that he believes there are controls in place for the Sheriff, and for the Supervisor of Elections. He said he would like to request that we ask the County Manager to submit a report to this committee that tells us what controls the Board of County Commissioners exercises over transfers of budgeted funds within the approved budget of the Constitutional Officers. Mr. Jenkins said secondly, he thinks it would also be helpful if the County Manager could give a little more detailed information as to what the annual financial audit consists of, because he does believe they look at systems and processes; they look for opportunities for fraud or those kinds of things that are mismanaged. He stated that there are a lot of systems and procedures, and types of things that the financial audit looks at as well, and if we could get this information he thinks it would be helpful to this Commission.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said he would repeat – when the Board appropriates money at the beginning of the fiscal year, to a Constitutional Officer, they do not know at the end of the fiscal year, where that money went, they only know it was spent. He stated that just because the external audit says it was spent properly, doesn't mean it was spent the way it was presented to the Board – that's a big difference. Mr. Ellis said you can spend money legally, but that's not what the Commission thought you were going to spend it for. He stated for example, he could come in and request two million dollars on salary and benefits for County Finance, he could sand bag a million dollars of that and use it for some other lawful expense. Mr. Ellis added that the financial audit won't catch that, but if you were a Commissioner, you would like to know that the money you said was going for salaries, ended up going for capital. Mr. Ellis said in fact, that was one of the big problems with his first predecessor, the Board was appropriating money for the internal audit function 400-500 hundred thousand dollars a year, the money was used to try and bail out the computer system in the Courts. It is a big deal, particularly when you get down to capital and software, you would like to know that when you appropriate money for something, that is what you've got.

Kendall Moore – Chairman Moore recognized Mr. Nye, Mr. Young and then Mr. Rosasco.

Matthew Nye – Mr. Nye said two things relating to the audit because as he remembers there was a lot of discussion during the last Charter Review Commission. He stated he would suggest we have the current firm come in and do a presentation of the different types of audits they conduct. Mr. Nye said he would also like to see a matrix showing the different types of audits, and what the County Commission can do, so we can just look at a matrix very quickly and easily. Mr. Nye said he personally gets this, but he believes there is some confusion.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said right, because the way they are looking at this is whether it is a lawful, or unlawful expenditure, not necessarily whether you spent it on what it was intended for.

Kendall Moore – Chairman Moore stated we will hear from Mr. Young, and then Mr. Rosasco.

Dale Young – Mr. Young said the County Comptroller if it is under the Tax Collector, is still an elected office.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes.

Dale Young – Mr. Young asked how that is going to eliminate some of the influences that we've had before, like unions, unnecessary fire station, fire trucks, and employees.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis you have to remember that the point on the Comptroller is to take a look at where the money goes. Again, even the Comptroller still isn't going to make that decision on foolish or not foolish, they are going to make the decision on legal and illegal, but you would have a better idea where the money went. Mr. Ellis said he understands what he is saying about the stations and trucks and a lot of those things, but if the County Commission bought 6 more ladder trucks that they would never use, and legally they are allowed to make that decision. He said the Clerks Office or the Comptroller would cut a check and pay for the ladder trucks. Mr. Ellis added that what the Comptroller could do – for example, let's say that the Property Appraiser asked for 30 brand new cars, at the end of the fiscal year, the Comptroller could verify that 30 brand new cars were purchased by the Property Appraiser.

Dale Young – Mr. Young said whether they needed them or not.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that's the big thing, you ask for things you don't have any intention of buying, and you use the money for something else. He said another example is, he goes in and submits a budget for 26 positions, and he only fills 18 of them, he'll leave the other eight positions open all year long, and at the end of the year, he has hundreds of thousands of dollars remaining that he can use as he chooses, as long as it is a legal expenditure, and the Board doesn't know this.

Dale Young – Mr. Young asked if it is switched to a Comptroller, would the same restraints that the Clerk of the Courts has, passed to that position. He said for example, he is responsible for every dime being spent legally.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis replied yes. He said the Comptroller would have the exact same powers, but then would have a Charter provision fully empowering them to look at all County expenditures, therefore the issue that you've talked about with Charter Officers, is a moot point. They are empowered by the Charter to be the Comptroller for all county spending. Mr. Ellis said he thinks that is really how it should be because if you are a County Commissioner, and you appropriate the money, you would like to know where it goes. He stated that right now, most of what spent ends at the County Departments, and you don't necessarily know what the Charter Officers truly purchased.

Dale Young – Mr. Young said they are going to have to be responsible then for the long term planning for the County, and he asked if that is correct.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said no, actually the County Budget Office would really be the place for that. He added that you could give those duties to the Comptroller, but the Budget Office is the one that should be sitting down with the County Manager. He said for example, he tried years ago to get a capital repair and replacement fund. You life cycle every piece of capital that you have – you enter it into the life cycle with a capital and replacement fund, you put in the roads, fire trucks, and even patrol cars. That way you know that if the Sheriff has 250 patrol cars, and they are good for 5 years a piece, you need to budget for 50 patrol cars every year – some years you’ll buy 40 and some years you’ll buy 60, but you know you are going to budget for 50 a year, and because of the capital and replacement fund, that is where the capital will come from. He said you would budget all of that so you wouldn’t have issues with roads, cars or any of those things – you would budget that first and you would discipline yourself so that over time as things wear out, you’ve got the money to repair or replace them.

Dale Young – Mr. Young said he thinks where the problem comes in, is that term “discipline”. He stated that we’ve seen this before, but there is a difference between financial planning and financial budgeting, and one doesn’t have anything to do with the other.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said right, but his point would be that the financial planning falls with the County Commissioners, the County Manager, and the County Budget Office. It is their job to make the decisions on spending the money, and he feels the intelligent thing to do is to have a capital repair and replacement fund, which is funded every year, that way you don’t get behind the curve on facilities, vehicles, roads or anything else, because you stay on top of it. Mr. Ellis said that this is something that the County Commission has to do.

Dale Young – Mr. Young said that the Charter would have to be pretty well written for that position.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that the Comptroller is really more of a legal position than it is a planning position. He said you can’t force a governmental body to plan, and you can’t force them to budget for the future. Mr. Ellis stated he wished you would and could, but you cannot, so it gets down to who the Commissioners are, or the School Board members, or the City Council members, where they properly plan that out into the future. He said quite truthfully, most governments don’t – none of the governments in Brevard do because every time you turn around, it is another crisis. Mr. Ellis stated for example with Road and Bridge, you are going to get so many years out of a dump truck or gradall – the proper budgeting for Road and Bridge would have the life cycle of all those pieces of equipment. He

said in any given year, you budget this much money and you are going to do this much equipment replacement, otherwise you end up with equipment that has to be repaired or replaced and there is no money budgeted to do that. Mr. Ellis stated he doesn't even hold the County Manager as much at fault, because the Commissioners have to sit down and make tough decisions. He said if they are going to do capital repair and replacement, it is going to be a big fixed chunk out of the budget every single year. Mr. Ellis stated that money gets set aside first, and then you see what is left for other things - it takes the fun out of spending during the year.

Dale Young – Mr. Young said it would not be popular.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated right, it is not popular, but if we ever did it and got use to it, we'd find things would work so much better and it would make the job so much easier. He said by doing it this way, you would not go crisis to crisis.

Kendall Moore – Chairman Moore asked Mr. Vose if he had a question before we move on.

Attorney Wade Vose – Mr. Vose stated he does not have a question, but he would like to make a comment to the Commission regarding the audit power. In any proposal that any member of the Commission may bring forward in regard to the splitting the office, putting powers of Comptroller or anything like that, or if there is an intention that that office would have the power to audit the other County Officers, he would suggest that this be an explicit provision in the Charter. He noted that the Orange County Charter has a provision that was added in 1996, that gives the Orange County Comptroller the power to audit the other 5 County Offices, including performance audits. Mr. Vose said if there is a proposal that comes forward, and there is an intention that this be encompassed in the powers, it would need to be explicit in that Charter Amendment and the proposal.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said absolutely, because then there is not a legal issue anymore.

James Rosasco – Mr. Rosasco said right, he heard that from the comments made by Mr. Ellis.

Kendall Moore – Chairman Moore recognized Mr. Rosasco and then Dr. Bobay.

James Rosasco – Mr. Rosasco stated that for a simple person, when you talk about financial audit, that is basically balancing the check book, correct?

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes.

James Rosasco – Mr. Rosasco said that is basically all it is, it's not the items in the check book, it's just the balance of the check book.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that the items are spot checked, but it is pretty much balancing the check book, yes.

James Rosasco – Mr. Rosasco said he has a question for Mr. Jenkins. After your County Manager life, you worked for the Sheriff's Department, and he asked if they did any of the audits that Mr. Ellis is talking about, and if so, how did the Sheriff's Department handle it?

Tom Jenkins – Mr. Jenkins said he will answer you in two ways. Number one, he doesn't totally agree with everything that Mr. Ellis is saying because he believes there are controls in place that limits how money can be moved from salaries to capital. Mr. Jenkins stated that his recollection is that this has to come back to the Board for approval, so it is not just carte blanche – spend it the way you want. He said when Sheriff Parker came in, they hired the County's Internal Auditor to come in and do an internal audit of the Sheriff's office because they wanted that information. Mr. Jenkins stated that he knows of one instance when he was there that the Sheriff's Office actually did an internal audit.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis asked if the was given to the Board.

Tom Jenkins – Mr. Jenkins said no, the Sheriff did it.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated, well I know but.....

Tom Jenkins – Mr. Jenkins said it was public record, but the Sheriff did it for his own information.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis asked if the end of year reports were given to the Board.

Tom Jenkins – Mr. Jenkins stated that they get the final budget and all that – that is part of the financial package.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said what we are looking at Mr. Jenkins is that, this much money was budgeted at the beginning of the year for these things, and at the end of the year, this much was spent, and this is what it was spent for. He asked if that type of report was delivered from the Sheriff's Office to the County.

Tom Jenkins – Mr. Jenkins stated that the Budget Office had the actual final budget of the Sheriff. He added that every year they get the final budget and the Budget Office looks at it for left over cash, because they try to take that cash.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes, he understands that – the excess cash. But for example, we went through this years ago with Sheriff Miller, where he asked for money for weapons and vests – at the end of the year was there a verification that those weapons and vests were purchased, and did that go to the Board?

Tom Jenkins – Mr. Jenkins said no; however, there was a verification that X number of dollars were in the Sheriff's operating budget, and they would get a report as to how much was spent in the operating budget. He added that they were not told whether they bought 10 vests or twenty vests, they were not necessarily told that no.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that is what he would be looking for, that detail. He said he understands that the numbers are always there, but we never would get the detail.

Tom Jenkins – Mr. Jenkins said he thinks the Sheriff would argue, that as an elected official, he should have the authority, if he deems it necessary during the course of the year to buy fewer vests and to buy more guns, then he should have the flexibility to do that. He stated that however, if he wants to take salary dollars to buy more vests, then he has to come to the Board.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said that his position would have been as a County Commissioner, you came in as the Sheriff and asked for money for these things – I appropriated money for those things – you never came and asked to change it to something else. He stated for example, if I appropriate you for a hundred patrol cars, and you decide to spent it on something else, you can come back the very next year and ask for a hundred patrol cars again. Mr. Ellis said that he wouldn't even know that last year you didn't buy the hundred patrol cars you said you were going to buy.

Tom Jenkins – Mr. Jenkins said if the money was spent in the line item, then you would know.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes, if that is reported to the Board.

Tom Jenkins – Mr. Jenkins stated it is in the final budget which is public record.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said there is no end of year report to the Board how money was spent in detail. He stated he can guarantee that Road and Bridge were watched how they spent their money.

Henry Minneboo – Mr. Minneboo said they watched him every day.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated the same with Parks and Recreation, if they requested money to redo a pavilion at Kiwanis Park, that money was to be spent on Kiwanis Park, and if you wanted to change it for something else, or carry it forward, you would do a budget change request, or a memo to do that. He added that we are very good about doing that with our County Departments, but we don't do anything close to that with the Charter Officers.

James Rosasco – Mr. Rosasco thanked Mr. Ellis.

Kendall Moore – Chairman Moore recognized Dr. Bobay and then Mr. Young.

Dr. Ron Bobay – Dr. Bobay said he has a question, and he is going to go back to the relationship between the County Commission and the Clerk's Office, from the standpoint that the County approves the budget and issues the purchase orders, and his office pays the bills. He asked if he can comment on the pluses and minuses of what would happen if the check book was moved over the Board of County Commissioners, and that both an external and internal audit be an annual reporting requirement that would have to be done by the Board of County Commissioners.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that you would have no check and balance. He said currently, if the County Manager and Clerk have a disagreement, neither one can terminate the other. He said the County Manager or City Manager can put pressure on the Finance Director - if you don't pay it, I'll find someone who will, and they either comply or they are replaced.

Dr. Ron Bobay – Dr. Bobay said his other comment goes to a comment by Mr. Nye a little earlier. He stated that some better understanding on his part would be good in terms of the criteria for external and internal financial audits, and how comprehensive the internal audit has to be.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that typically when you do an internal audit, it is something that is fairly specific in nature.

Dr. Ron Bobay – Dr. Bobay said it sounds like it is very subjective from the standpoint of what you include in an internal audit.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated it is subjective, in fact, he can remember when he sat on the Board and we had the auditors come from the Clerk’s Office, and they would ask if we felt there was a particular department that should be audited. He said you are correct it is somewhat subjective, but he is not sure how else you would do it, as he is not sure how you would establish rules for being objective. Mr. Ellis stated that if you had a full blown risk analysis done at which departments are most at risk for blowing the money on something, then you could rank it that way, but it is subjective.

Dr. Ron Bobay – Dr. Bobay asked about an external audit committee that is drawn from key people in the community that has a certain amount of autonomy.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis advised that the County does have an internal audit committee.

Tom Jenkins – Mr. Jenkins stated the County has that now. They have 3 or 4 outside people; they have 1 or 2 county people on it.

Dr. Ron Bobay – Dr. Bobay asked if they determine what will be audited in the internal audit.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said yes for the internal audit. He stated that the external audit is mandated by the State.

Dr. Ron Bobay – Dr. Bobay stated he doesn’t understand the problem. If you’ve drawn in a number of external people on an independent audit committee, and they give direction to the County, it is not being driven by the internal workings of either the Constitutional Officers, or the Board of County Commission. It is being driven by this external audit committee.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that he would guess that we just disagree because the external audit committee will only have the information that the staff gives them.

Kendall Moore – Chairman Moore recognized Mr. Young.

James Rosasco – Mr. Rosasco said he has quick comment. If you look on the County website, you can get all the internal audits that the audit committee prepares, they are all available.

Kendall Moore – Chairman Moore called on Mr. Young.

Dale Young – Mr. Young stated that nobody takes any action on the audit, they are worthless. We have a library full of audits, but nobody ever does anything about them. Mr. Young stated that the committee that you are talking about, had a nice big audit, but nothing was done with it whatsoever by the County Commission, so what good is it. He said if the school appoints their own auditors from the community, what good are they?

Kendall Moore – Chairman Moore recognized Commissioner Nelson, and then Mr. Jenkins.

Commissioner Chuck Nelson – Commissioner Nelson stated that he is going to disagree with what Mr. Young just characterized. He said he can guarantee you that they had to respond to the audits – it was a miserable experience in having a Department as large as Parks and Recreation as they were audited on a routine basis. Commissioner Nelson stated that the County can't audit every operation every year - that is simply not practical. He said they certainly look at high risk areas or areas where there are issues. Commissioner Nelson said he wants to get back to the Wickham Park comment, one of the issues that was happening, was they would buy something out of a Wickham Park account and then use it at a different park site. He said in addition, there was some actual criminal activity involving a purchasing card, and they were terminated.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated no, they were transferred. He said it was not Commissioner Nelson's fault because you couldn't prove who actually used the card.

Commissioner Chuck Nelson – Commissioner Nelson advised that additional safeguards were put into place as a result of this, so it worked out okay. He said with regard to CIP, we talked about the fire trucks, and he wants to make sure we're on the same page. Commissioner Nelson stated a capital item is in the budget twice – it's in the capital improvements program which the Board approves, and it is also in the Department's line item budget, which the Board approves. He said being in the CIP only gives you the ability to go out to bid for that item if it is over a hundred thousand dollars, you cannot just go out and buy something that is in the CIP, it still has to come back to the Board for award. Commissioner Nelson stated there have been a couple screw ups; but he was off the Commission when this one happened. The County Manager has the authority, to approve up to a hundred thousand dollars. He said he saw one of the fire trucks; it actually had to come back through the County Commission.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that a ladder truck was bought every year.

Commissioner Chuck Nelson – Commissioner Nelson said that one came back through the County Commission.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated, not every year. He said he went through himself looking for the trucks and the 2009 item was used to by that truck, plus 5 more trucks, one each year.

Commissioner Chuck Nelson – Commissioner Nelson said he believes the 2009 item was used to go to bid on the Viera truck – that was the one that was on his watch, and it came back to the County Commission as he remembers the agenda item and discussion before the Board. He said he thinks you may have even been there.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that the last one was the tiller truck because at that point they had been arguing with County Management that you can't keep spending for million dollar trucks without going back to the Board for approval. He said by the time you get further down the line, you will have Commissioners that weren't even there back in 2009.

Commissioner Chuck Nelson – Commissioner Nelson said in all fairness Scott, it was still in their line item budget and it was in the CIP. You can argue that the decision to buy 5 trucks several years ago, needed to be reviewed – that is a fair comment, but it was in the budget and the Board had the ability to actually see that. He stated the one thing that he really does agree with you on is the Capital Repair and Replacement. Commissioner Nelson stated that they had a variety of different funds that could all be used for parks, and they were actually encouragement to save money, because at the end of the year, that became cash forward, which and became their capital replacement, and that is the only way they could get new equipment. He said he saw that as a positive, not a negative, where they could save money as this created the ability to buy new mowers, which the Board of County Commissioners wouldn't fund them for any new mowers.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that if we had a true capital repair and replacement plan for parks, you would life cycle everything you have, and you would get the sum total based over 10 years. He said that would automatically be budgeted to parks and you would know that that money would carry forward every year. Mr. Ellis stated that sometimes you spend it all, and sometimes you don't, not everything breaks on its cycle.

Commissioner Chuck Nelson – Commissioner Nelson stated that when he was in Pasco County for 17 years, they had one for equipment budget, however, they didn't

have it for everything, but they had it for equipment. He said that Road and Bridge in one year bought 12 graders - there were a lot of dirt roads over there.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that if that money is set aside, it is not a big deal

Commissioner Chuck Nelson – Commissioner Nelson said once they bit the bullet, it became reoccurring. He stated that this is a fiscal issue.

Scott Ellis – Mr. Ellis stated that it is expensive at first, but as you stay on that plan, it is much better in the long run. He said our dispute goes out to budget and expenditure, but expenditure and budget don't always match. Mr. Ellis stated that if he was back on the Board again, he would want to see those large expenditures as they came up.

Commissioner Chuck Nelson – Commissioner Nelson said he thinks you do see most of them.

Scott Ellis – Mr. Ellis stated that our consent agenda used to be a lot bigger back in the 1990's.

Commissioner Chuck Nelson – Commissioner Nelson said at that time, the County Manager's limit was \$25,000.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said if you were a Commissioner, it was there, now whether or not you chose to read or study it or not or, was up to you as a Commissioner, but it was there. He stated that he doesn't think having a much larger consent agenda is a real problem because there is no excuse that someone didn't know. Mr. Ellis said he feels sorry for the public, who has to read through all of those, but they are there, and you can read through it as a member of the public. He stated that if it is not on consent agenda, you probably aren't going to see it. Mr. Ellis said he cannot remember ever, while he was on the Board, having someone come up and protest about the capital improvement plan. He stated we hear complaints all year long on everything else, but not the CIP.

Kendall Moore – Chairman Moore recognized Mr. Jenkins.

Tom Jenkins – Mr. Jenkins said he just wanted to clarify something that Mr. Young said, and that is that every audit, regardless whether it's an end of the year audit or an internal audit, has a follow-up schedule where the auditors come back and look at it again. He stated that either corrections or adjustments have to be made, or you have to give justification as to why you thought it was a bad recommendation, but there is absolute follow-up on every audit he has been through.

Kendall Moore – Chairman Moore recognized Mr. Nye.

Matthew Nye – Mr. Nye said that if memory serves him correctly, in the 2010 Charter Review Commission, we had the County Auditor come in and they explicitly said the IT Department was basically perpetually non-compliant, so he would dispute that. He stated that he remembers that quite clearly because he was interested in the IT operations. Mr. Nye said that the auditor said that there had been numerous infractions that had not been corrected.

Commissioner Chuck Nelson – Commissioner Nelson said a classic example of one that they always got in their audits was – you don't have a computerized tracking of maintenance systems. And they were absolutely right, and they got written up for it every year, because the Board of County Commissioners wouldn't fund it. Commissioner Nelson stated that he doesn't see how you can blame the Department for something that the County Commission.....

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said he is sympathetic to Mr. Nelson. He stated that when he got there, they argued for years about why they were paying more money to lease a damn IBM 360 boat anchor, versus just getting rid of it, and buying a computer.

Commissioner Chuck Nelson – Commissioner Nelson said it comes down to the Commission making those kinds of decisions.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that the Commission has to make the decision to upgrade the IT Department, and you bite the bullet on these capital goods. He said this is very critical, and if you don't, then your operations slip day by day because you've not spent the money on the capital goods.

Kendall Moore – Chairman Moore recognized Mr. Rosasco.

James Rosasco – Mr. Rosasco said he served on the internal audit committee so he is somewhat familiar with it, but he thinks the point that Mr. Ellis was making, is there isn't that sort of thing for the Charter Officers, and he thinks that is a void we want to fill.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said quite truly, he doesn't care – they can come and audit him anytime they want. He stated the way he looks at it is, they are going to come through and if there are some discrepancies, then we'll just get them corrected, or debate the discrepancies, but he is not worried about an audit. Mr. Ellis added that he doesn't understand why anybody should be worried about an audit, and

he doesn't understand why we've had this resistance. He said that you should be open to being audited.

James Rosasco – Mr. Rosasco said to follow-up to what Mr. Jenkins was saying, there is a schedule which is on the website of each department, the cycle, and it also has the follow-ups and some risk things. He stated that there are some things that are never getting corrected and they are in bright red and high risk, but as Mr. Nelson was saying, the County Commissioners are not going to fund that problem, so it never gets remedied. Mr. Rosasco said there is a great deal of information that is available, and they are doing performance audits, but this is only the County Departments, it is not the Charter Officers.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said it is also very difficult for Parks and Recreation, or Road and Bridge to come directly to a Commissioner, so everything has to pass through a chain of command, so it is very easy for something to fall off the page coming through the chain of command. He stated that it takes someone at the top level pushing down, and you have to be realistic, but sometimes some department heads spend a lot of time nickel and diming small expenditures when those things should just be move forward. Mr. Ellis said for example computerized maintenance program, it is also a cost savings for you. The modernized computerization needs to be done and he can tell you that it is a painful process, but once you finally get there, it's a lot easier.

Commissioner Chuck Nelson – Commissioner Nelson said SAP has a maintenance component, and it's about a million dollars to implement that. He stated it was always killed because of that.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said it is a life cycle component you can use, but you have to implement it and stick to it. He said he thinks the School Board has finally realized after this last referendum how critical it is that they need the same thing. He stated that when you've got hundreds of buildings, you've got to know the life cycle of the roofs, plumbing, electrical and parking lots –so you can budget for that - you can't just keep trying to patch each roof as it leaks. Mr. Ellis said he remembers that one year we received some free money from a nursing home that had been sold, and we received hundreds of thousands of dollars for free to the County. He stated we spent that money for roofs - one was at Kiwanis Island, and there was one was at Gibson – but that money was going straight to capital and straight to roofs. Mr. Ellis said he doesn't know how much was spent on the jail, but that roof was extremely expensive when it was finally done. He stated that if that been in a capital repair and replacement program, it would have never gotten to that point – you would have had a little bit of pain every year which is better than major pain in one year.

Kendall Moore – Chairman Moore recognized Dr. Bobay.

Dr. Ron Bobay – Dr. Bobay said he has a quick question for Mr. Vose, and that is, does he agree with Mr. Ellis that the County Commission can do and require internal audits for the Constitutional Officers.

Attorney Wade Vose – Mr. Vose said he has just been looking over the Brevard County Charter at some of the protections provided to the Charter Officers. He stated that absent a Charter amendment – there is Section 4.2 of the Brevard County Charter, which states: “The departments of County Government headed by elected officers enumerated in this section are not subject to the supervision of the County Manager.” Now that doesn’t say the Board of County Commissioners, but he thinks what that is getting at, is that while they are referred to as offices under the Charter government, they are not departments as the other departments of County government. Mr. Vose said that same usage in other parts of the Charter, there was an additional provision in Section 4.6.1 – No transfer from County Officers – “A power or function existing in a County office by virtue of the State Constitution or general law and placed by this Charter under a County officer may not be further transferred or removed except by Charter amendment. In all other cases the Board of County Commissioners may by ordinance make changes in any or all department organizations including combinations, deletions and creation of departments or divisions or transfer responsibility between departments and divisions.” He said that this is basically while they are Charter officers, they are under the Charter government, under the power of this Charter, and it is drawing yet a distinction between all of the other departments within the County government. Mr. Vose stated that an argument can be made that if power or function could relate to some immunity from having that audit by the Board of County Commissioners absent a provision in the Charter. He said he was curious to know what the basis of their legal position was, because he can see some of the moving parts of what a position would be, but he thinks it is clear, in his opinion, that if the Charter were to be amended to make it clear, that that power was there, that it would not be inconsistent with State law.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis stated that if Mr. Vose will ask Mr. Knox, he can give you a copy of his opinion which was done some years ago, and he also thinks we need to understand there is a difference between supervised and audit. Supervised is where he is actually telling you what to do, and under the audit, I see where you spent the money; however, I don’t necessarily have the power to tell you where to spend it. But guess what, next year; I’m not going to give you that money again as a Commission.

Attorney Wade Vose – Mr. Vose stated he agrees with that distinction, but in the absence of knowing the precise reasoning, both the County Officers and the County

Attorney's Office, he is trying to define where those arguments from both sides came from.

Dr. Ron Bobay – Dr. Bobay said another question he would ask is, in the absence of us having a Home Rule Charter period, does the Constitution permit the Board of County Commission to require an internal audit.

Attorney Wade Vose – Mr. Vose stated that that is a completely different animal. There is case law and the Attorney General's opinion on that point, that in a non-Charter County, the Board of County Commissioners cannot be getting into auditing the independent Constitutional Officers. He stated that because you have a Home Rule Charter, and because what had previously been Constitutional Officers are not County Charter Officers, he would suggest that this is a firm legal basis for being able to grant the Board of County Commissioners that power to be able to audit, or perhaps another office like a Comptrollers office.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said that if push came to shove, and you really wanted to do the audit, you could do it under 119. Mr. Ellis stated that you can just sit there and start requesting the financial records. He added that it is a painful way to do it, but it can be done that way.

Dr. Ron Bobay – Dr. Bobay said he feels a little bit defensive about the comment relative to the School Board planning for capital replacements and buildings. He said in many cases they had little control in 2008, when they took a major share of capital money that had been previously allocated, and put it into the operating budget because they didn't have enough money to fund basic expenditures for salaries and so forth. Dr. Bobay stated he is sure that any former County Commissioner, as you were, would see that there are certain ups and downs that you have to deal with, it is not a straight line where you know you have so much budget, and you are going to get more each year.

Scott Ellis, Clerk of the Circuit Court – Mr. Ellis said he can promise you that from 2004 to 2006, he had a knock down drag out with the School Board, and County Commissioners over spending that money as we were in a housing bubble; however, no one wanted to recognize it. He stated that a \$60,000 house in Crest Haven is not really worth \$200,000, and it is not going to be worth \$200,000 ten years from now. Mr. Ellis said that is when they went into the big debt expansion over at the School Board, which is the root of what their issue is now – the massive amount of debt borrowed back then. He stated that the County got bitten a little bit on that, with the second park referendum because then when values fell, in the north end of the County, they couldn't cover the debt and Merritt Island got bit a little. He stated that this is something that we have not seen much of, but it happens in times of a recession, as it

did in 1993, and when Apollo busted, so you have to be very careful when you use debt like that.

Kendall Moore – Chairman Moore asked if there were any other questions for Mr. Ellis. He said in seeing none, he thanked Mr. Ellis for his presentation to the Commission today. Chairman Moore said as we do on any presentation, or proposals, he asked if there anyone in the audience who would like to be heard on this subject. He stated in seeing none, we will move onto Public Comment or any other subject. Chairman Moore asked if there is anything else before we adjourn. He stated he will give you three reminders, number one, Mr. Jenkins, we did make the notation about the reports that we will request on your behalf from the County Manager’s Office, Mr. Nye we will invite future guests to come and present to the Commission on internal and external audits from the County, and the third thing is that you will receive written notice of the cancellation of the January 13<sup>th</sup> CRC meeting. Chairman Moore said we will see you at the January 28<sup>th</sup> meeting, at which time Ms. Cullen will be here from the Tax Collector’s office. He stated we will most likely have the Orange County Comptroller at a separate meeting. He said if there are no other questions or comments, we will consider ourselves adjourned at 4:32 p.m.