

Summary of Discussion
Broward County Charter Review Commission
Wednesday, October 10, 2007
Broward County Governmental Center
115 South Andrews Avenue, Room 430, Fort Lauderdale, FL 33301
10:00 AM – 1:00 PM

Members Present:

Mayor Lori Moseley, Chair
Commissioner Hazelle Rogers, Vice Chair
Commissioner Hayward J. Benson, Jr.
Michael L. Buckner, Esq.
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.
Commissioner Ted Mena
Burnadette Norris-Weeks, Esq.
Bruce Rogow, Esq.
Dr. Irv Rosenbaum
Ms. Jodi Jeffreys-Tanner
Richard J. Weiss, Esq.

Members Absent:

Mr. Wil Trower

Others Attending:

Devin Avery, Broward County Office of Economic Development
Kareen Boutros, Executive Director, Broward Workshop
Pete Corwin, Assistant County Administrator, Broward County
Jim Cummings, Broward Workshop
Chedley Etienne, Administrative Assistant, CRC
Ellen Feld, Esq.
Dan Glickman, Deerfield Beach, FL, resident
Matthue Goldstein, Broward County Planning Council
Samuel Goren, Esq., General Counsel, CRC
Yolanda Grooms, Administrative Specialist, CRC
Commissioner Sue Gunzburger, Broward Board of County Commissioners

Alain Jean, BSO
Phyllis A. King, Transcriber, PKING Consulting, Inc.
Alan Levy, Broward Workshop
Commissioner Ilene Lieberman, Broward Board of County Commissioners
Mr. Bruce Moeller, Fire Chiefs Association of Broward County
Carole Morris, South Florida Water Management District
Russell Rand
Robin Rorapaugh, Broward Workshop
Patricia G. West, Executive Director, CRC
Mel Wilson, Esq., Special Counsel, CRC
Scott Wyman, Sun Sentinel

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

A meeting of the Broward County Charter Review Commission (“CRC” or “Commission”) was held at 10:00 a.m. on Wednesday, October 10, 2007 at the Broward County Governmental Center – Room 430, Fort Lauderdale, FL.

I Call to Order/Roll Call

The Chair Lori Moseley called the meeting to order at 10:04 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 September 12, 2007 Summary of Discussion.

II Approval of September 12, 2007 Summary of Discussion

The Chair requested a **motion for approval** of the CRC September 12th Summary of Discussion.

[Ms. Eisinger entered at this time 10:05 a.m.]

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

III. Chair and Executive Director Report

The Chair stated that she went to the Broward League of Cities and made a presentation of the proposed resolutions being brought forth by the subcommittees. She advised that the CRC is

continuing its efforts to engage the public in the process as much as possible which is why the meeting is being broadcasted live via webcast and televised on Comcast. The Chair advised that it is the desire of the CRC to have as much participation as possible as the process moves forward.

The Chair reminded everyone that the next meeting will be held in on October 24, 2007 at the Broward County Main Library. She also reminded everyone that the meeting duration will be from 10 a.m. to 4 p.m. as the CRC has realized that there is a need for more time to accomplish its goals.

Executive Director's Report

Ms. West reminded the Commission that there will be no meeting held in November.

Subcommittee Presentations

Ms. West provided the following subcommittee presentation schedule:

- Land Use – October 24, 2007
- Health and Social Services – December 12, 2007
- Public Safety – December 12, 2007

She advised that these dates are subject to change depending upon how far along the Commission gets with the presentations today.

Commission Folders

Ms. West provided an overview of information contained in Commission members' folders which included the following items:

- **(Located behind Tab 5)** - Follow-up information to the TSC presentation from the last meeting, including a copy of the PowerPoint presentation, the proposed MTA Resolution, memorandums and emails from legal Counsel regarding responses to questions posed by the CRC with regard to the proposed MTA Resolution.
- **(Located behind Tab 1)** - Information on the AGSC presentation including all proposed Resolutions and a copy of the AGSC's PowerPoint presentation, in addition to charts describing the failed resolutions regarding Re-districting and an Elected Mayor. Ms. West advised that this information is provided just so people will know what the CRC has

done to-date.

Letter from Michael Buckner, Esq., regarding a Better Broward Proposal; dated September 21, 2007.

- **(Located behind Tab 2)** - Information on the HSSC draft proposed resolutions describing a proposed Broward County Housing Council, and a Recommendation to the County Commission regarding Children's Services.
- **(Located behind Tab 3)** - Information on the LUSC including information on the draft proposed resolutions regarding Park Preservations, Open Space and Environmental Policy.
- **(Located behind Tab 4)** - Information on the PSSC regarding the proposed change in the name of the Fire Rescue Council. Ms. West advised that there is also a memorandum from Special Counsel – Mel Wilson, Esq.

Ms. West requested that the Commission members utilize the binders provided as working documents, and that she still will make every attempt to replace necessary material by changing out the proposed resolutions if there are amendments or changes made.

The Chair advised that public input will be requested after each subcommittee makes its presentation and the CRC has had its dialogue, and prior to the CRC vote.

The Chair moved on to the next agenda item and opened the floor to continuation of the discussion of the proposed recommendations of the TSC. She requested Mr. Buckner provide a brief synopsis.

IV. Michael Buckner, Esq. – Continuation of Presentation by CRC Transportation Subcommittee Recommendation to the CRC Regarding the Metropolitan Transit Authority (MTA)

Mr. Buckner provided an overview of the proposed MTA Resolution. He reminded them that the subcommittee felt that there were too many issues involved in terms of dealing with Mass Transit. One being the lack of political leadership at the County level in terms of providing vision and direction for Mass Transit tied into that is the second issue which is the lack of dedicated funding. He explained that the TSC feels that to have the MTA and its Board of Trustees appointed by various political entities in Broward County would help address both of those issues. Mr. Buckner thanked the CRC for the thoughtful questions posed at the last meeting.

He advised that he directed the questions posed to legal counsel (Mr. Goren) for his firm to answer in order to provide an accurate response to each question. He requested that Mr. Goren provide a summary of his memo to the Commission.

Summary of Memorandum No. 2007-017 (supplement to Memorandum NO. 2007-016)

Mr. Goren: In the backup, you'll note a memorandum we did on October the 3rd that responds as best we can to the three questions that were posed at the last regular meeting. The first of which relates to the human resources function, the employment relationship between the proposed MTA employees and others. The second question related to the issue of bus fares and how that could be regulated or adjusted by the MTA, if not by whom and lastly, the issue related to the actual role that the MTA would play with the County Commission.

To best answer all three, I think the memo responds as best we can to those three issues. As a matter of information, one of the key factors in this proposal is the fact that the group that is being established or is thought to be established truly is advisory -- separate, but advisory in many ways, not much unlike the Broward County Planning Council, when you deal with human resources functions, employees would be employees effectively of Broward County. They'd get a paycheck from Broward County; they'd have the benefits and otherwise fringes that are given to Broward County employees. In a sense they are under the auspices of the entity that you are seeking hypothetically to create, but they would be under the control of Broward County from a pay and performance point of view.

In connection with bus fares, you've raised the issue and we responded as best we can. The MTA has no unilateral authority under the creation proposed to actually establish bus fares. The obligation to do so is a County Commission function. Bear in mind that the transportation impact of all of this is a County-wide issue and because of that, the budget as controlled in this discussion is controlled not by the MTA but by the Board of County Commissioners. That is what it is.

We've raised the specter and it's been discussed briefly about dependent districts. I know Dr. Rosenbaum raised it this morning in our earlier conversation. There are certain barriers so-to-speak, to obtaining or creating such a district which would require a referendum. It would require some additional issues to occur before that could occur.

The current framework as proposed by the subcommittee is a separate body, advisory in nature, with specific duties and responsibilities to some extent subordinate to Broward County on the

budget and funding side, but extracting or deleting from the Charter that section which relates to Transportation. So, you're actually transitioning that department as it were, to this group as a specific entity. So long as you are comfortable with the fact that advisory is what it is and the control is what it is. I think our answer rests better in the memorandum as requested, and I can answer questions as you see fit. Much like the Broward County Planning Council, employees etc. would fall under a similar category and the relationship would not be dissimilar. The annual funding opportunity of the County Commission would be required to conduct what would include this group as part of that discussion.

Because of the legal constraints earlier described, there could not be a situation where this group would have separate rights to contract for – or independently contract with third parties because of their current relationship. However, that does not mean that they could not otherwise seek to provide and to obtain and seek out funding mechanisms, grants and other financial opportunities which are strictly referred to in the document, and in fact are encouraged.

Mr. Buckner explained that the TSC feels the proposed MTA is a necessary first step to proceed on to the vision of a true *Regional* Transit Authority for the entire south Florida region encompassing Palm Beach, Broward and Miami-Dade Counties. In order to meet the vision, the County must have a dedicated funding source which is currently not in place.

Mr. Buckner advised that in traveling, conducting research for his next book he recently visited Philadelphia and Chicago. In those two cities, he did not rent a car, he utilized Mass Transit. He was able to travel all over Philadelphia and that New Jersey, Pennsylvania and Illinois worked together on Mass Transit. He explained how he travelled utilizing mass transit, a distance that would have taken twice the time to travel by car, for a few dollars. He stated that this is essentially what the TSC has looked at with Transit issues. Broward County has fallen so far behind in public transit that it is time; there may be questions as to why create just another Advisory Board. He pointed out that the County has been through several different forms of government and none of them have solved the transportation issue. Every Commission has pushed it off, delayed or made decisions which they felt at the time was probably in the best interest. However, in the long-term interest of the County; the TSC believes that this is the way of thinking and the first step. He advised that the second step would be to get dedicated funding either from the State or from some other sources and to continue strengthening this type of Authority with the ultimate goal of merging with the various transit authorities in order to have a truly regional system.

Mr. Buckner invited the other TSC members to offer any other comments or thoughts that he might not have addressed.

Mr. Mena stated that he does not disagree with Mr. Buckner's analysis of the politicians not getting anything done. As a political member in all fairness, the reason things have not been done is because of funding not politics. He advised that People for Progress produced an excellent program last year and if it had been implemented things would be getting started. Mr. Mena stated that it takes 15 to 20 years to do some of these things. What the TSC is suggesting is to try to get the dialogue started now, not to wait another 15 to 20 years. He suggested that Tallahassee and the County should talk about funding, then approach the federal government.

Mr. Rogow stated that he sees the MTA not just as an advisory group but as an advocacy group. He stated that this is an important first step. Mr. Rogow commended the TSC on their job in focusing the CRC on the issue and creating an entity that would serve the County well into the future.

Ms. Tanner advised that as a member of the TSC, she is very pleased to be able to offer the recommendation to create the MTA to the full Commission. She believes it's a very important step toward addressing the growth in Broward County and the Tri-County area, as well as putting it in the forefront as a priority in Transportation.

The Chair advised that she is concerned with Exhibit A, page 2, Section 12.03A. She asked Mr. Goren if the CRC goes forward with the resolution, if everything written in the resolution is part of what goes forward.

Mr. Goren: The short answer Madam Chair is yes, because the Exhibit to the proposal is the exact language proposed to create this entity. So that language is the language that would be the actual proposal that would be submitted for voter consideration. If the concept is approvable, if the resolution is a document that this Board ultimately would approve, that Exhibit is a substantive critical item to the approval.

The Chair advised that she then has a concern with the way that the seven (7) members' Board of Trustees would be comprised. She explained that she does not agree with, "four (4) members shall be nominated by the Mayor and confirmed by the County Commission". She stated that she does not think the four members should be nominated by the Mayor; there should be another mechanism there.

The Chair referring to Exhibit A, page 2, Section 12.03E stated that she is also concerned that elected officials and government employees are ineligible for appointment to the Board of Trustees.

Mr. Buckner explained that the TSC tried to look at the lessons learned, providing an example of the Atlanta MARTA system and the allegations of corruption and undue influence due to members on the MARTA Board, and when the County had a Port Authority. He stated that the TSC also wanted to make sure that the public knows that the effort was clear and transparent, that no one sitting on the Board was going to have any type of benefits, connections, undue influence or the perception of undue influence in terms of the governance of the MTA. He advised that one of the lessons learned from groups across the country supporting Mass Transit is, that they suggested that any type of effort made will fail if the public feels that it's the same game and that people are benefitting. Mr. Buckner explained that, therefore, the subcommittee felt that having people on the Board who are qualified and have knowledge of transit issues, but are in no way connected to government would be good. He believes the public is getting fed up with what they perceive as people taking advantage of their position. They are not looking at individuals and people, but looking at overall the best long-term interest of having people sit on the board that do not have contracts or are employed by the government.

The Chair stated that even when the People for Progress came forward that most people do some work in the County. She does not believe that the world is full of corrupt people. She believes that the majority of people value how they serve the community, and how they stay in the ethical parameters that they are supposed to. People with transportation knowledge might be doing some work in the County. The Chair explained that some of the parameters are difficult to **adhere to in terms of** whom you would appoint. She stated that if someone is involved with Transportation, they might be doing work somewhere.

Ms. Rogers advised that she agrees with the Chair's opinion. Referring to Exhibit A, page 2, Section 12.03B.2, she is not sure if this item should look to the academia and universities. She suggested also possible retirees and more specific criteria.

Mr. Buckner advised that he is in the private sector you are in government, however there are 2 million people in Broward County. There are people that have knowledge and professional experience that are not in government. Just because you are not a government employee or not elected does not mean that there aren't people in Broward County who have the requisite experience and professionalism in order to provide the in-depth knowledge to sit on the Board.

He again explained that the TSC decided to propose the structure as it was, because nothing was going right in terms of Mass Transit. Mr. Buckner advised that the TSC wants Mass Transit to succeed. One scandal with someone who could be influenced might cause the Mass Transit system to go nowhere.

The Chair asked Mr. Buckner to allow for all comments to be made prior to rebuttal in order to conserve time.

Mr. Mena referring to Exhibit A, page 2, Section 12.03E advised that the concern is that some people that are qualified would not be able to be on the MTA Board if they are elected officials. Most elected officials are not in the Transportation business, but work for some other area and most are lawyers. He stated that the other comment made regarding the Broward League of Cities: they have a Director who is not an elected official; this should be kept in perspective.

Ms. Eisinger advised that she thinks perhaps that elected officials can come to the table with a wealth of knowledge and more information on the needs of the residents. She suggested that at least one position for an elected official should be included.

Ms. Good agreed with Mayor Eisinger. She advised that a key problem is the dedicated funding source referring to Exhibit A, page 1, Section 12.02A, and stated that knowing exactly what it will all cost is an issue. She stated that under the area of Exhibit A, page 4, Section 12.05 that there are a great number of items that need to be carefully looked at. She expressed concern that it delineates in Articles and Sections that the County **shall** do and **shall** provide etc., all of which requires funding; the issue of how dedicated funding sources will be pursued needs to be addressed. Ms. Good then referred to Exhibit A, page 5, Section 12.06A and advised that she would like to know what the "MTA's duties prescribed in the Charter" exactly are. Ms. Good referring to Exhibit A, page 5, Section 12.06D.2 advised that she has an issue with this item because '*reduce fraud*' means that there is fraud.

Ms. Good advised that she believes the elected officials provide a great amount of resources and she would hope to think that anyone who would be on the Board would be in touch with the constituents and would be able to represent a great number of individuals in the Community. She would not want to eliminate any one particular individual unless there was a perceived conflict of interest from serving on such a Board of Trustees. Ms. Good thanked the TSC for trying to move the County into an era where transportation is a key component of the County's vision. However, she advised that funding is always going to be a key issue and until the

support comes from the State and the legislature, the problem will continue and the MTA body might be put together but the mechanism might not exist for them to do anything.

Mr. Weiss advised that he too is concerned that every member of the proposed MTA is being appointed by Elected Officials. He asked why the proposed MTA wasn't given more authority.

Mr. Buckner advised that the proposed MTA was given as much authority as permitted under the Charter without it being a special district.

Mr. Weiss asked if the proposed MTA could have been given authority to enter into contracts. He explained that legally, seeing the way the Public Health Trust operates in Miami-Dade County, they were able to get a funding source from the Legislature via a penny sales tax; they were able to get something done. He explained that other than approval of their budget, he does not think they can sell their property without going to the County Commission.

Mr. Weiss asked Mr. Goren if something like this would be possible with the proposed MTA.

Mr. Goren: The questions you raise are important questions that the subcommittee considered seriously. I think that a great part of the conversation evolved related to the issue of advocacy and a first step. I'm not professionally comfortable to suggest that this Board once created would have independent contracting authority even if created by the charter; because the ultimate financing end of how this group is promulgated is vested in the County Commission's ultimate approval of a budget which I think is a legal precept that we can't get away from.

Mr. Weiss asked if the Charter could delegate. He advised that the County Administrator has contracting authority.

Mr. Goren: With limitations.

Mr. Weiss asked if the Charter could delegate to the proposed MTA within their budget as approved by the County Commission.

Mr. Goren: You've raised a different specter to the extent that the CRC as a full Board wants to discuss in the next level, this particular concept moving forward. The issue of incrementally providing for additional authority could be an issue to be addressed and adopted. I think that if you can set parameters, if you suggest, for example, that they could expend money up to X number of dollars or whatever it may be. That you could provide for.

Mr. Weiss asked if it was a policy decision made by the TSC not to give the proposed MTA any real authority or if it was a legal decision that was dictated. Mr. Weiss suggested that if the MTA is going to be created, it should have sufficient authority.

Mr. Buckner advised that the policy decision by the subcommittee was to try to give the MTA as much authority as permitted under the Charter and relied upon legal analysis to actually provide more of a description as to what that authority is. He advised that he agrees with Mr. Weiss and if the proposed MTA will be created, it should have sufficient powers to get the job done.

Dr. Rosenbaum stated that conceptually the authority is one thing and the Board is another. He stated that he suggested earlier that one of the ways to construct the Board is to define it from professional areas, such as is done with the Public Service Commission here in the State of Florida. He suggested that the Board could then be balanced off with two, three or however many consumer members. Dr. Rosenbaum does not believe that anyone should be eliminated; rather people should be brought in who are tuned in to the transportation field that do not have continuing conflicts with the County. He advised that there should be expertise on the Board and a consumer point of view, because the people who ride the transportation should have a voice.

Mr. Benson advised that there are several points he wished to address. He asked if anyone is aware if the same Board structure limitations are being discussed in Miami-Dade and Palm Beach Counties. If they are not there as being currently discussed, what kind of problems could be foreseen when interacting with the authorities of Palm Beach and Miami-Dade Counties. Mr. Benson advised that this possible conflict could very well exist if there is not a seamless construction between the three counties if the intention is to eventually make up the Authority that will have overlapping interactions with the two adjoining counties.

Mr. Benson advised that he believes that the CRC will begin to delimit the capacity and capabilities if, in fact, it is said not to have elected officials and government employees as part of the proposed MTA because there is a sense of knowledge and skill set to be found in both categories of people. Elected officials bring information from the constituents and the governmental employees bring data and information that can be used in terms of interacting and trying to find answers to problems that will be confronted.

Mr. Benson stated that he understands and is in support of trying to minimize corruption and conflict, but that it appears to indict a person before they get there is not the way to go. You can in fact have conflict and find corruption even if you don't have the other categories of people on the Board.

Mr. Benson inquired as to why seven (7) members. He pointed out that this is an opportunity to get more people involved in the process.

Ms. Weeks stated that after receiving the opinion of legal counsel, she is still thinking along the same lines. She advised that she got the sense at the last meeting that the proposed MTA is supposed to be something different that will have a certain amount of authority that could do more outside the box than just regular government, such as abolishing the Department of Transportation within the County government structure and setting up the proposed MTA as the new entity. She stated that after reading the opinion (Memorandum 2007-017) prepared by Mr. Goren, it looks as though it will not have the same oomph that she thought it was headed for.

Ms. Weeks advised that she does not have the same concerns with regard to elected officials serving as you will always have that someone, who knows somebody. She stated that she is wondering if maybe the proposed MTA should be an Advisory Board with some of the same things in place, but not necessarily abolishing the existing Department and doing some of the other things, given the fact that there is no great distinction between what it is that was initially proposed and the powers that are actually there.

Ms. Kaletta advised that as a member of the TSC that a lot of research and the questions being posed are questions that the TSC had gone through and had legal counsel advise on, as to why and how things were done. She advised the Commission that the two purposes that the TSC felt for the proposed MTA and what they did would be (1) Advocacy - if there is a vote for a tax, or putting a penny on the rental cars, whatever the method, the MTA would be able to be up front and dedicate themselves to this. They would be able to make sure that everyone is knowledgeable about what needs to be done to further the long-term goals of Broward County. She stated as far as cost, one of the reasons the TSC thought of taking the Department of Transportation, was that they are already a part of the County budget; that money can then be used to establish the authority, and their second charge would be to find a dedicated funding source and eventually become self-supporting.

Ms. Kaletta stated that she thinks seven (7) Board of Trustees members is a workable number; other numbers were discussed. She advised that 4 from the Mayor are suggested so that the Commissioners would be included.

Ms. Kaletta advised that as far as having elected officials, she thinks they have too much on their plate as it is and this is too important to be a side dish for an elected official; this needs to be something that has emphasis. Ms. Kaletta explained that her wish was that the TSC could have given the proposed MTA more authority and looked at every way possible to be able to do so.

Ms. Tanner reminded the CRC that the proposed MTA resolution is still a working document with plenty of room for change. She stated that the perception of having a constituency could sometimes lead a person to vote certain ways which is one of the reasons she remembers the TSC decided against elected officials. The wish was to have more of an at-large perception and a larger constituency and to avoid the possibility of NIMBY situations.

Mr. Esack stated that to address Ms. Goods' issue about the funding, advised that it would be the Department of Transportation that is already in existence and Mr. Walton would be moved into the new MTA; therefore, a large part of the revenue source would be that Department. Mr. Esack addressing Ms. Weeks' discussion on the opinion of legal counsel dated October 9th advised that it is definitely valid.

Mr. Esack advised that he agrees with Ms. Tanner that the document is definitely a work in progress and with the additional feedback as well as the additional opinion of legal counsel, he hopes that the Commission does not vote on the proposed MTA resolution prematurely and squash it versus looking at it and making the necessary revisions based on suggestions heard today.

Ms. Rogers stated FOR THE RECORD, that in looking at the make-up of the Board she is not present to advocate for any method or any public official being on the Board. She recognizes that Transportation is the economic engine for Broward County.

Ms. Rogers suggested that the CRC consider giving teeth to the MTA. She stated that she does not want to see the proposed MTA as just an advocacy group as to achieve the goals of Transportation for it to work. Obtaining funding from the State land to achieve the goals, and looking at private property to get the infrastructure to achieve the goals of making sure that Broward County remains viable, needs a Board with some of the credentials mentioned by Dr.

Rosenbaum. She reminded the Commission that Transportation is the key to keeping a workforce here in Broward County. Ms. Rogers stated that she would like to see a body that can do some of the things such as at the Port. An Authority must be able to make the tough decisions that will help the County achieve the goals.

The Chair advised that she wished to add to what Ms. Good was saying about Exhibit A, page 4, Section 12.05C. She stated that 12.05C states “Plan, develop, finance, construct, and operate improved transit facilities...” in Broward County, in coordination with other transit authorities. She stated that obviously at the same time the County Commission will be creating their annual budget, they won’t be doing any contracting. She is not sure how this works together. The Chair asked if the MTA will be overseeing the construction because it says that will be their duty. She then advised that she agrees with Ms. Weeks, that making the MTA an advisory body without all the powers might be a good way to go.

Mr. Rogow addressed the exclusion of elected officials, and stated that he thinks the real reason is the reason that Ms. Kaletta has given, which is that elected officials have many other duties and responsibilities and by having people who are not elected officials be responsible for the MTA, they will be able to be focused. He apologized for the focus being on the conflict and corruption issue as he does not believe that this is the *raison d’être* for excluding elected officials.

Mr. Rogow stated that elected officials do have some role in the proposed MTA as they would be appointing the members of the Trust; therefore, through their appointments they are speaking for their constituency. He stated that it is true that this is an incremental step, an advocacy group (advisory) and he has confidence in the County Commission working with them. Mr. Rogow stated that he is not a big believer in creating whole new entities and new independent taxing districts; he thinks this is a good first step.

The Chair opened the floor to public comment recognizing Commissioner Sue Gunzburger. She stated that she will continue with dialogue after public comment.

Public Input – Proposed MTA

Commissioner Sue Gunzburger, Broward County Commission

Thank you I’m not going to debate whether elected, or non-elected. The Commission as it’s written now really wouldn’t be appointing, it would be the Mayor rather than the Commission;.

the Mayor would be appointing; the Commission really wouldn't have much of a say. If it's strictly to be advisory to the Broward County Commission and they want to look at it and decide some of the needs in Transportation and how to finance it and it comes to the Commission, fine. However, if the Commission has to sign the checks and they expect the funding to come from the Commission, then the Commission should be doing the work of the Transportation Advisory Committee because none of us have an unlimited checkbook.

For those of you who may not know it, our general operating budget this year is all of \$324 million. Of that \$64 million are unfunded mandates from Tallahassee. So if you think Tallahassee is going to be very willing to give us extra money for Transportation, there must be something stronger in your water than I can imagine.

Secondly, we would be willing to – I would have no problem if you wanted to make a separate Transportation Authority, but it would have to do its own funding. None of us have the ability to go out and fund something that we have no control of. I'm sure Mayor Moseley would not want somebody sitting there with an open checkbook. I'm sure Commissioner Rogers wouldn't, Commissioner Mena wouldn't. We don't have open checkbooks with unlimited resources. We had to cut our budget. Besides that, we had to cut our budget by \$90 million because of Tallahassee and I loathe to see how much more the Special Session is going to send down to the County when it comes to Medicaid/Nursing Home funds.

So that's my problem. If you want a separate Taxing Authority that goes up to the voters – The voters said yes to the Children's Services Council, and perhaps they'd say yes to this.

[End Commissioner Gunzburger]

Commissioner Ilene Lieberman, Broward County Commission

I think that you have to decide whether you want a separate entity to run Mass Transit or whether you want an Advisory Board. If in fact it's your goal to make it a separate Authority, then I believe taxation follows authority. You can't have decision making in one body and taxation in the other and if there's any doubt in anybody's mind look at the legislature. In addition to House Bill 1 which decided cities and counties had to roll back their budgets by arbitrary amounts, I can tell you that as of this morning there is an issue in play in the legislature to provide on the January 29th Ballot a second \$25,000 Homestead Exemption to replace the floored Constitutional Amendment. There are also some discussions about portability in some

form and tax caps. That's what happens when you have taxation in one body and decision making in another; so I firmly believe it has to follow the other.

That being said, you can go either way. Either an Independent Authority which has its own taxation authority, its own line on the tax bill, its own public hearing setting taxes that the people can go to and voice their concerns, or as Dan Glickman has told us, and I know he is anxious to speak, you have an Advisory Group which has to have its share of people who are users, regular users of the system. Those are the people who will tell you where the problems are in your Mass Transit System more than anybody else, and I would welcome having an Advisory Board. Dan has come to us on numerous occasions to talk about doing that and it's a good first step to have a group put together who will look at all of these issues and will make recommendations to the Board to help with route problems, funding problems, a host of other items. But then the taxation and decision-making authority would remain with the Board ,but please don't create the hybrid, go one way or the other.

[End Commissioner Lieberman]

Mr. Dan Glickman, Deerfield Beach, Fl

Thank you, I don't mean to speak out of turn here, but the Memorandum 2007-016 dated October 3rd on the first page, refers to "*Please note as we previously advised in Memorandum 2007-008...*" per this its '**(Revised)**'. My recollection having attended all the Transportation subcommittee meetings is the idea of whether or not it had to have a Special Independent District in order to do the various things that they are now told they want to do, and in case they really want to have authority was never really fully discussed by the subcommittee. I would suggest if that opinion is in fact correct and not subject to other opinions, whether it be Mr. Weiss who's obviously knowledgeable in Transportation or others. But if that opinion is in effect, then that should go back to the Transportation Subcommittee, let them deal fully with what was discussed by both Commissioners just now, whether or not if you want to have the Authority; you also have the taxation capability and let them come to grips with that. Make a decision which way they in fact want to go based upon legal advice, if there be a separate one to any effect then come back and let you know after their substantive discussion. I do have a number of other comments, but until you go through that route to determine whether or not it's the taxation with the authority or somehow or other not; everything else is just going to be a long discussion X, Y and Z, A, B and C, etc. I think it's premature unless you have that first discussion with the Transportation subcommittee and see what they come up with. Thank you.

[End Dan Glickman]

Mr. Jim Cummings, Broward Workshop

Thank you, my name is James Cummings. I was the Chair out of the People for Progress on the Transportation Initiative. I'm also a member of the Regional Transportation Authority and have been for the last 12 years and I also helped write the legislation that created the Regional Transportation Authority. So I'm pretty much familiar with the Transportation issues here in Broward County. I'd just like to say that the group that handled – Mr. Buckner's group, I think has done an exceptional job in a first step in creating an Authority that is necessary in order for us and our County to move forward to resolve our transportation issues.

The key element in solving our issue is funding and I'm sure all of you are acutely aware of that. I just want to go through just a few issues that we learned when we did the Referendum for Transportation. (1) We did several polls. One of the issues we found out that the citizenry was most concerned about was our elected officials and our County Commissioners. I don't mean to be disrespectful since we have two of the finest ones here. But their concern was that they did not want to allocate the money through the County Commission. The statute that we were utilizing *F.S. 212.055 required that it be a sales tax and it be a dedicated funding source solely to transportation*. Although it had to come through the County Commission, the improvements and what we were going to do with the money had to be clearly delineated.

When Dade County passed their ½ penny sales tax, which incidentally they are going back to try to pass more because it's not sufficient, they came out with a specific plan, which we did in the People for Progress. That is a key element in order to get their approval. The fact that the money was dedicated for those issues was a key element. The fact that we had an independent Board that was – yes they were appointed by the County Commission – whomever they wanted to use, whether it's four (4) by the Mayor, or one (1) by each Commissioner; seven (7) is an exceptionally good number, nine (9) would probably not be a problem. Anything more than that gets cumbersome. But in any event, they were independent. I think it's difficult to say that any of these members cannot work for the County. However, it would not be inappropriate from my opinion to say that any of these members could not work in any Transportation related initiatives that the County might initiate. I don't think you want to limit your members too much. But would they be politicians? What we've found in our polls, absolutely not. Are there sufficient personnel out in the community to handle these duties? Yes there are; there are many, many people out there willing to step up to the plate. The big issue again is funding.

I don't think this Authority should probably ever have taxing authority. They should certainly have the ability to promote an initiative such as we did with People for Progress and educate the people. We had 38% of the vote. The reason we did not pass that penny sales tax is the opposition that we received from the County Commission. Much negative opposition, it took us a long time to even get it put on the ballot. But then there was opposition on whether or not it should have been a penny. I'm not here to argue that now. Our charge was to come up with a solution for Broward County. It would have taken a penny. Would we have gotten a ½ cent passed? Many of the Commissioners, after we got into the discussion said, "look if you'd have come to us with a ½ cent we'd have supported it and it probably wouldn't have been a 5 to 4 vote; maybe it would have been a 7 to something – I don't know." In retrospect, one thing I learned from that is to at least come up with something. This Commission has to step forward and come up with something for Transportation. What you've got so far is a good start. Please don't go backwards. If you do anything, go forward and expand their abilities. One of the things that we've found out in our review and we reviewed the Transportation Department with the County is they are not capable of running a major Mass Transit System. There are many, many people there that are very capable. But you don't have the organization setup to run a Mass Transit System, then again you don't have the money. The penny would have generated \$270 million a year which is a substantial sum of money. You have to have the organization there to get that money. The only way you're going to get that money and the only way you will build a transportation system capable of handling the needs of Broward County is through Federal and State funding. In order to do that you have to come up with a dedicated funding source; it is a 3 to 1 return. You come up with a quarter; they'll come back with 75 cents. You come up with nothing; they won't even consider looking at your request.

So again, come up with something out of this Charter Review Commission. Come up with something that can at least generate enough enthusiasm where we can go out and find a dedicated funding source. You've heard from one Commissioner, "don't expect money from Tallahassee." Believe me I talk to Tallahassee people all the time. We're going the other way. They're going to cut our funding. They're going to reduce our funding. We can't even get for the RTA funds that are generated in the Tri-County area to come back to the Tri-County area. They're spending enough in Pahokee and the Panhandle and that's one of our biggest problems. So Mr. Buckner, you've done an excellent job. I implore you to continue with this and come up with approval of some initiative and if you want to give them more authority, that's fine, but understand without a dedicated funding source. Not taking the money from the County

which they only fund a few million a year – I think it's like \$30 million a year in the operational budget of the Bus System. Without a dedicated funding source they really can do nothing.

Mr. Rogow asked Mr. Cummings if he thought it would have made a difference in the prior election if there were an MTA or an entity similar to what is being proposed that would have been an advocate for the funding source.

Mr. Cummings: Okay, would it have made a difference? Yes it would have, that was part of our ballot initiative. In Dade County, in order for them to get it passed they had to establish an Independent Authority separate from the County Commission. Their monies still came through this Florida Statute 212.055 which meant that it came back to the County. They have this Independent Authority which spent the money but how it was spent was already determined in the plan. They gave them a plan and said, *“this is what we’re going to do, we’re going to put Mass Transit down State Road 7, we’re going to ride so many buses, we’re going to put a light rail here, we’re going to buy the FEC Corridor”*. All of that in order to get the people of Broward County to vote for this; which is what you’re going to have to do. You’re not going to be able to independently go out and pass it; I don’t think that Mr. Goren will say that’s legal.

In order for them to vote for this, they’re going to want to know ,what are you going to spend the money for? Who’s going to sit on this Committee? We don’t want any politicians there. We want people that are Bankers. We want constituents. We want to see somebody that rides the system have a voice in it, because that’s where you get the first hand experience. We want it to be independent and we want it to run your whole Transportation System.

Mr. Rogow advised that this is the question he is posing. He explained that by what the TSC is proposing they are creating this entity that would then be able to make the proposals and gain credibility within the Community and then when it goes on the ballot for the funding source, they would have something already that the constituency can relate to and see that these are serious people who are trying to address this problem and now here’s the money that we’re asking for to do it. The plan would be in place.

Mr. Cummings: Exactly, let me tell you, we spent in man-hours probably close to \$1 million in developing a plan that laid out every corridor, every bus. It was funded – we laid out the funding program, the grants, the state money, the federal money. You have to do that in order for the public to say we support this. Our fallacy and our big problem, what stopped us from passing this was we didn’t have enough money to educate the people. We only spent \$800,000 in

education. It wasn't enough and we couldn't get any money from the County. It is a monumental problem to pass even a ½ cent sales tax here, and now with the taxes being cut and the problems we've got with property taxes and insurance it's even worst. So it would be very difficult. Unless you educate the public, one thing we found out was they aren't going to vote for it. They want to know what are you going to do and who's going to have control of this and those were the big issues.

Ms. Rogers asked Mr. Cummings what he would suggest be put in place to avoid having the same problems that the RTA has experienced.

Mr. Cummings: Thanked Commissioner Rogers for her support. As most of you know the RTA by its statute is required to come up with some dedicated funding source five (5) years after it was initiated; that five years expires in about 1 ½ years. One of the things we tried to get the legislature to do was to provide for a \$2 sales tax on each car rental coming out of Dade, Broward and Palm Beach Counties. This would have generated approximately \$50 million. The then Governor Bush said it was not appropriate to tax tourists and he vetoed it. We passed the House and the Senate; it was vetoed by the Governor. Tourists don't vote on any taxes in our County that I know of anyhow. But that was his reason as it was published in the paper.

Unbeknownst to us, there is already a \$2 tax on rental cars. If most of you have been here a long time, remember about 10 or 12 years ago some tourists coming out of Dade County Airport were murdered, so they put up all of these little sunshine signs and everything. They applied a \$2 surcharge to the rental cars across the State to promote safety and that's been ongoing for about 15 years. It sunsets I believe in November. Now, instead of going back and asking for an allowance so we can put on a referendum for a \$2 surcharge on rental cars, what we've said was we want you to give us this \$2. This is about \$50 million right now for the tri-County area. Give us that \$50 million since it's generated in the tri-County area. Incidentally this money is generated all over the state, so each County has its specific allocation. What the Department of Transportation has said is, "this money is already allocated to come back to the various districts." We've got District 4 here and District 6 in Miami. We've asked them, where is it going in the program? MTO do you have it? Have you seen the money? Nobody's seen the money; so what we're trying to do right now is find out where the money is. The head of the Department of Transportation says, we've already sent the money back.

So what can you do? I will be calling you to help us initiate a program in this next session to get this money that is presently being collected back to Broward, Dade and Palm Beach County. Now, we're going to request that it goes to the RTA.

The Chair intervened at this time and respectfully advised Mr. Cummings that he is straying a little off topic.

Mr. Cummings: Well, this is your dedicated funding source.

The Chair agreed but advised that the topic is getting way off as the CRC is trying to make some fundamental decisions. She informed Mr. Cummings that she does appreciate his input.

Mr. Maus asked Mr. Cummings with regard to prior opposition of the County Commission, if it was from funding for education of the Public or if it was for some other reason – penny sales tax.

Mr. Cummings: They voted not to educate the public.

Mr. Maus: was it just from that perspective.

Mr. Cummings: I don't know what their perspective was; they voted not to educate but I'm not sure exactly why. I think it was something; I think the government has the obligation to educate the public when something gets on the ballot. They also did not fund the Courthouse.

Commissioner Lieberman approached the podium at this time.

Commissioner Lieberman: I appreciate Jim's passion; he's just wrong. We did vote to educate; we voted not to advocate; there's a difference. Your attorney would tell you there's some case law that says, it comes out of Tallahassee; *People Against Tax Reform* and it's probably the leading case which says elected officials have a duty to educate. But I can tell you courts have been elsewhere and there's a Fourth DCA opinion which basically said the opposite. You've got to love that, right Bruce? So we did vote to educate and we voted to educate on the Courthouse too. Jim is right, I went out and I spoke to everybody on all these issues. Mel you helped us also. But you know there is a fine line between education with a big "E" and advocacy with a little "a" and sometimes you've got to be really careful about using public funds for a big "A" versus a big "E".

Mr. Cummings: I totally agree with it, you can't advocate but you can educate, but the education was so minimal...

Ms. Kaletta advised that every meeting that the TSC had included in the discussion was on money and where the funding source was coming from. She advised that this was the reason the decision was made to take the existing DOT as the seed money to get the MTA started. Ms. Kaletta again reminded everyone that this is just a first step and they would love to put out a penny tax or 2 cent tax and have the MTA work right away, but it's not going to happen in the environment today and the TSC was very aware of that; therefore, the decision was made to start with something that could grow.

Ms. Kaletta stated, with regard to citizens involvement and advised that in Exhibit A, page 5, Section 12.07, there is a MTA Citizen's Advisory Council as the TSC was very cognizant that we needed to have the citizens who ride the transit system take part in it. She advised that the subcommittee was very aware that the citizens were needed to serve as advisory to help consult, to give ideas, to help promote and educate out in the Community. Ms. Kaletta stated that she thinks a lot of the questions the Commission keeps bringing up *are* addressed. It's just a matter that the TSC didn't think that it could go full boat and get it passed. The TSC went as far as it could go, hoping that it would be the step that would get the CRC approval and then the voters' approval in order to move on.

The Chair advised that she is not sure if there is consensus one way or the other. She advised that she is not sure if the way the proposed MTA resolution is written would be the way the group would want to go forward or not go forward. She advised that she has a lot of concerns about the lack of a funding source. She would have to agree with Commissioner Lieberman that it will be a group that is not the taxing authority, which makes it very difficult in reality to have the MTA work.

The Chair stated that she thinks Transit is a priority and agrees that Affordable Housing is a priority. There are many things in Broward County that are a priority, but if there is not a funding source is why she thinks in her own opinion, that it could be Advisory in nature and create an Advisory Board. She believes that the way the proposed MTA resolution is written, it conflicts with itself between Construction and Financing. The County Commission is obviously doing its budget. The Chair stated that she thinks that it needs to go one way or the other because, the way it is written she would not be comfortable. She added that she does not agree with the

appointment being by the Mayor only and then the County Commission ratifying it. She stated that there are many issues in it that she would not be comfortable voting for.

The Chair advised that now the CRC is going to get to the tough part and the subcommittees will respectfully do a lot of work and have a lot of dialogue. She advised that to her, their role is to bring it all forward so that the CRC can collectively have a dialogue, which is what is actually happening. She does not want there to be frustrations from the subcommittee as the full Commission begins to tear apart what the subcommittee has done as it is not meant to tear apart, but it is meant for the rest of the group to have the knowledge that the subcommittee has and to have the questions. She stated that the subcommittee has had months to work on it and that's been really good, but she advised that when the full CRC gets together everyone has to have their thought processes spun out.

Ms. Rogers suggested that it should be determined if there is a Transportation problem that needs to be addressed. The CRC should decide if it supports the proposed MTA and requests the subcommittee to fix some of the things being addressed. She advised that Transportation is the key to sustainability for everything in Broward County.

Ms. Tanner stated that she is willing to do whatever it takes to keep the proposal on the table to address the goals and the progress needed in Broward County.

Mr. Ketcham advised that he thinks the Memorandum from legal counsel kind of changed everything from what was presented previously. He suggested that the TSC take back its proposal in order to rework it and bring it forward again to the full CRC.

Mr. Weiss suggested a vote to ensure there is the necessary support to move forward and do something.

Mr. Benson agreed with Mr. Weiss and advised that he believes there should be a move to create an Authority *with authority*. He would want the Authority to be able to handle Transportation issues and find resolutions to questions that would be coming as a result of that. He stressed that the CRC has to move it and make it happen. He advised that if it is going to have a regional affect, then it should be looked at in a sense of making some things happen.

The Chair advised that she believes there are two questions (possibly three) on the table. (1) If the proposed MTA will be sent back to the subcommittee, which she stated she did not see anyone rigorously going no. (2) Before sending it back to the subcommittee the Chair

suggested that the CRC should decide whether the majority – if there are 10 people wanting the MTA to have more authority or if there are 10 people wanting it to have less authority, then the TSC will have to go back and work on specifics. The Chair asked if everyone was comfortable doing it that way. (Multiple members replied yes).

Ms. Weeks stated before considering a motion that a couple of items need to be addressed. She stated that the Commissioners made comments that need to be seriously considered. The first being creating another unfunded mandate; Ms. Weeks referred to Exhibit A, Section 12.02A it talks about financing, constructing, etc. which are items that concern her. She stated that the other issue that concerns her is to create something with more authority could possibly be creating something that just won't pass. She pointed out that the voters, voted less than a year ago dealing with the Transportation issue and they don't want to be taxed anymore. To go in that direction it would be to create a Taxing Authority. Ms. Weeks stated that it is a very difficult issue which she believes should go back to the subcommittee for them to consider Mr. Goren's opinion and in order to avoid doing anything in a hybrid way because it creates another set of problems.

The Chair pointed out that it is a bigger legal question if the TSC went back to give the MTA more authority. She confirmed with Mr. Goren that the MTA could be responsible for its own funding source which would also require a resolution. The Chair stated that her comment is not to stop anyone from doing it, but that she is explaining that it is a bigger legal question.

Ms. Eisinger stated that she agreed with Ms. Weeks, that it is obviously something that is needed. If there is no source of funding and it's just an Advisory Council, she asked if it is going to be productive. She stated that she is not advocating this as she is not sure it is the right answer but if it goes to a Taxing District you'd seriously address the issue.

Dr. Rosenbaum suggested putting something in place that will result in an Authority being created. He explained that stage one would be to put some sort of mechanism in place to plan and elaborate on the Transportation System and once that is in place and the public has the details then go back to the public within 2 years and ask the voters for taxing authority similar to what is done with Chapter 190. Dr. Rosenbaum used Weston as an example, whereby it was initially a taxing district and after five years returned to the voters to become a City. Dr. Rosenbaum explained that this is the type of two step process that Mr. Buckner was outlining – a mechanism to get there and then getting the Authority to the voters for them to see exactly what will be done providing them a level of comfort in stage 2.

The Chair asked for comments from Mr. Goren on Dr. Rosenbaum's suggestion.

Mr. Goren: What I'm hearing and trying to digest is all of your various concerns that you've drilled down a little bit further this morning about Authority and Independence. You've heard from County Commissioners who spoke truthfully about the issue of taxation following the Authority. We were delicately trying to balance that issue in our Memorandum at the time the questions were asked. You are asking additional questions today and talking about statutes that have not truly been researched by me personally that have implications here. 189 Districts and 190 Districts are different. Independent Districts and Dependent Districts are different. CBDs are also different than those other two. There's a whole different aura to that issue. If it be the wish of this Board to redirect the request to the subcommittee for further examination, we could certainly prepare a more highlighted recipe so to speak or a resume of options ranging from the hybrid that you may have before you in whatever form that may be, an Advisory Board in whatever form that may be created, or in some other independent body which may require further legal challenges at some later time. Remember you are not the legislature of Florida. They could create a special act to actually put a magic wand over the conclusion. You are a Charter Review Commission having Ballot Access through the County Charter itself, that creates part of the limitations of your authority as well. I would be happy, given the direction, if it's given to drill down further into some of these legal issues that you've raised this morning and to try to give you a resume of legal options for a more independent entity that might respond to some of the questions this morning.

The Chair offered to have two different motions on the floor. She stated that one would be to have the Board be formulated in a more Advisory capacity and the other motion could be to give it more Authority and to look into whatever other means would give it greater taxing authority.

Mr. Rogow MOTIONED to have the proposed MTA Board of Trustees formulated in a more advisory capacity, SECONDED by Mr. Mena.

The Chair stated that this will be the first vote and called for a roll call vote.

Commissioner Hayward Benson	No
Michael Buckner, Esq.	Yes
Mayor Debby Eisinger	Yes
David Esack	Yes
Ms. Patricia Good	Yes

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

15:3

MOTION Passed 15 YES to 3 NO.

The Chair stated for the record that since 15 people said yes the proposal will be sent back to the subcommittee to do more work in keeping the proposed MTA in an advisory capacity.

Mr. Mena asked if the TSC could obtain the support and assistance from Mr. Cummings.

The Chair responded that this would be fine. She then called for a 2 minute break.

[Break – 11:40 a.m.]

The meeting reconvened at 11:45 a.m.

Dr. Rosenbaum requested a clarification of the vote which took place prior to the break.

Mr. Mena stated that there were to be two votes but only one took place.

The Chair explained that only one needed to take place because if the majority said yes to one, you can't have the majority saying yes to the other because then there would be no focus.

Dr. Rosenbaum advised that this was his question.

The Chair explained that the vote was to have the MTA be advisory in nature and not to give it more teeth. Dr. Rosenbaum asked if this precludes the subcommittee from going with step-two. Mr. Rogow responded that it does as you can't move forward, you must keep it advisory based on the vote. Dr. Lieberman stated that he thought the vote was to make it advisory but not with the exclusion of considering making it an authority. The Chair responded no and advised that the whole point of the vote was to get an opinion one way or the other.

Mr. Rogow advised that his feeling about the motion was that it did not preclude what Dr. Rosenbaum was talking about with regard to there being something in the future. He stated that he does not believe that the two are mutually exclusive and everything comes back to the full CRC anyway. He stated that what was said was that it would be advisory and then there would be stage two.

The Chair clarified and advised that the question was whether legal counsel would be working with the subcommittee, which she thought would have been the second question of developing a more independent authority with taxing authority, etc.

Mr. Rogow disagreed and advised that this was not the motion. The motion was purely advisory. It is still purely advisory and he stated that what he heard Dr. Rosenbaum asking, is if there is a way that it could be purely advisory and sometime in the future this group could be putting something on the ballot or help get something on the ballot that would provide the funding source. Mr. Rogow explained that his perception was that voting for advisory only was not inconsistent with thinking about a stage two, but what would come back to the full CRC would be advisory; it would not be an Independent Taxing District based upon the vote.

The Chair asked Mr. Goren if this would still require another legal analysis.

Mr. Goren: No.

Mr. Weiss stated that it is very important that people walk away clear about what they voted on.

Mr. Weiss MOTIONED to reconsider the vote of making the proposed MTA purely advisory. Dr. Rosenbaum SECONDED, I's were stated and the motion passed unanimously without opposition.

Mr. Rogow MOTIONED that the MTA be advisory in nature and the Transportation subcommittee be directed to go back to address matters within the proposed MTA resolution that are in conflict with being advisory in order to make it clear that it is an *Advisory MTA*.

Dr. Lieberman ask if the Commission votes advisory if there could be language that the Advisory Committee would look to the future to make it an Authority to propose sources for funding.

The Chair advised that this conflicts the question.

Mr. Ketcham explained that he sees a vote to create an Authority and another vote that creates an Advisory Board that would eventually move into an authority.

The Chair advised that this is not the motion on the floor. She advised that there is a motion and a second on the floor and there can only be one on the floor at a time.

Mr. Ketcham asked if his suggestion could be a **FRIENDLY AMENDMENT**.

Mr. Rogow accepted the **FRIENDLY AMENDMENT**.

Mr. Ketcham clarified his **FRIENDLY AMENDMENT** advising that the Advisory Board will be created with the idea of developing an MTA *with authority* sometime in the future.

The Chair called for a second on the amendment.

Ms. Weeks SECONDED the FRIENDLY AMENDMENT.

Dr. Rosenbaum stated that the process would be that an Advisory mechanism would be created and at some point (ex. 5 years) it will go on the ballot to create a Transportation Authority with revenue and taxation.

Ms. Good stated that she supports the Advisory motion, but stated that she would not be supportive of the Amendment because again the Advisory Committee is being mandated to come up with some taxation provisions...

Dr. Rosenbaum disagreed and explained that what is being suggested is subject to the vote of being submitted to the voters.

Ms. Good again expressed concern with mandating the Advisory Board. She suggested letting the Advisory Board work in its capacity and come up with certain things and let the next Charter Review take that on. She advised that she does not believe the current CRC should be dictating what happens 5 years from now.

Mr. Rogow explained that it may not be able to be done. He suggested sending the proposed MTA back to the subcommittee to give them the opportunity to see what can be done.

Ms. Tanner explained that the proposed resolution was written the way it is (without the taxation) because the TSC knew it was not the proper time to ask the voters to vote on a new tax. She believes it can be followed through with making it in an advisory capacity and promoting the going forward with getting some type of dedicated funding as part of the duties of the Advisory Board.

Ms. Eisinger suggested and agreed with Mr. Rogow that it should go back to the TSC for discussion.

Ms. Weeks again stated that the TSC should have some clear direction.

Ms. Kaletta explained that the solution is simple and agreed that the TSC will look at it from an Advisory point of view and it will be Advisory “,as a starting point”. She does not agree with adding timeframes but suggested that the CRC should mandate the fact that it is a start.

The Chair agreed with Ms. Kaletta. She added that the second step, researching whether or not the MTA could be a taxing authority or what type of taxing authority to her, would require a whole different set of legal opinions than if it was just advisory in nature. The Chair asked Mr. Goren for a legal opinion.

Mr. Goren: I understand the motion and if it is adopted by the Board we will be happy to work with the subcommittee to try to create and refine the proposal before the Board, if it be the wish of this Board in the context of additional opportunities or options, alternatives we'll study them within a reasonable time and economies of scale and provide opinions to them to move in that direction. I think I understand what you are trying to accomplish.

Mr. Weiss stated that he believes one of the jobs of the Advisory Board would be to advise the County Commission. He stated that if they take their job seriously and they feel like a strengthened Authority with a sales tax is the right thing to do then they'll advise the County

Commission with that. He agrees with Ms. Good and his vote will be with the clean original motion made by Mr. Rogow without an amendment, making it purely advisory.

Ms. Rogers stated that regardless of whether or not it is advisory, the Commission members should leave today's meeting knowing that the MTA will have a focus to advocate for a comprehensive, multi-modal public transit system which shall provide all persons with mobility and circulation throughout Broward County and the South Florida Region in accordance with an appropriate Transportation Plan. It needs to be specific. It should also have the charge to pursue the adoption of local, state and federal legislation including dedicated funding sources.

Mr. Buckner stated that if the CRC members would look at what the MTA proposal is right now; it is already advisory. He referred the Commission to Exhibit A, Section 12.05C and advised that those duties are already done by the Broward County Transit. All the proposed MTA would do is take over what Broward County currently does. Mr. Buckner explained that where the proposed MTA resolution says, *finance* – he explained that BCT finances are partially through fare box recovery and also through other means of county government it constructs and operates. Mr. Buckner stated that in the MTA proposal as it is now the second step is already in the document which is seeking out a dedicated funding source. He explained that this could mean going to the State and having the legislature give the MTA the additional powers that the CRC cannot make under the Charter.

Mr. Buckner informed the Commission that the subcommittee did look at funding sources and asked if any type of funding could be put into the Charter and the subcommittee was informed that it could not be incorporated into the MTA. He believes that essentially what everyone is talking about is already included in the proposal.

The Chair called for the vote on the AMENDMENT.

Ms. Weeks asked for confirmation that the Commission is not dealing with the abolition of the DOT within the County structure, but is merely re-working the language proposed to ensure that it falls within the four corners of what would be typically an Advisory Board under the existing County structure.

The Chair stated Ms. Weeks is correct.

Mr. Benson stated that there is already an Advisory Council to the MTA which is advisory.

Ms. Weeks replied that that Advisory Council does not have the duties proposed.

The Chair asked Mr. Goren for assistance with language for the Motion as Amended.

Mr. Goren: I think the Amendment if I can encapsulate it in to words, it is “to explore.” That leaves open various options. I think that’s what you’re all groping for in the context of trying to find something out there that will give you some opportunity to think further. I think that’s what you are trying to do is to open up the door for further exploration.

Mr. Weiss explained that Mr. Rogow MOTIONED to direct the Transportation subcommittee to review and revise their recommendation from creating an MTA to creating a purely Advisory Committee. **The motion was AMENDED by Mr. Ketcham to further direct the Transportation subcommittee to include within the proposed draft resolution the direction for the proposed Advisory Committee to explore future possibilities.**

The Chair called for a roll call vote on the AMENDMENT.

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

14:4

MOTION AMENDMENT Passed 14 YES to 4 NO.

Mr. Esack asked the Chair to again explain why the Commission could not consider a stronger authority vote by the entire Commission.

The Chair explained that the conversation came up that there was a wish not to kill transit and if the Commission voted today, it might get killed. She stated that the motion on the floor is trying to save something as opposed to throwing it out.

Commission members continued to express confusion on the item being voted on.

Ms. Good asked for clarification of what *“exploring the possibility of future options”* is.

Mr. Goren: Those options are not yet defined. They have to be defined by the subcommittee, which we will hopefully work with them to develop.

The Chair called for a vote on the main motion as amended as follows:

Mr. Rogow MOTIONED to direct the Transportation subcommittee to review and revise their recommendation from creating an MTA to creating a purely Advisory Committee and to further direct the Transportation subcommittee to include within the proposed draft resolution the direction for the proposed Advisory Committee to explore future possibilities. The MOTION was SECONDED by Ms. Weeks.

The Chair called for a roll call vote on the MAIN MOTION AS AMENDED.

Commissioner Hayward Benson	No
Michael Buckner, Esq.	Yes
Mayor Debby Eisinger	Yes
David Esack	Yes
Ms. Patricia Good	No
Ms. H.K. “Petey” Kaletta	Yes
Mr. Mark Ketcham	Yes
Dr. Mark Lieberman	Yes
Joseph Maus, Esq.	Yes
Commissioner Ted Mena	Yes

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

14:4

MOTION Passed 14 YES to 4 NO.

[The Chair called for a 15 minute lunch break at 12:11 p.m.]

The meeting was reconvened at 12:26 p.m. The Chair recognized Dr. Rosenbaum for presentation by the CRC Administrative Issues/Governance Subcommittee.

V. Dr. Irv Rosenbaum – Presentation by CRC Administrative Issues/Governance Subcommittee Recommendations to the CRC Regarding:

- 1. “Non-Interference in County Administration”**
- 2. “County Commissioners Recusal Requirement”**
- 3. “Regionalism Policy Statement”**
- 4. “Overview of Five Failed Resolutions Regarding Redistricting and Directly Elected Mayor”**

Dr. Rosenbaum reviewed a PowerPoint Presentation. He provided an overview of the charge of the AGSC. He provided a review of the subcommittee’s proposed resolutions and Ballot Language:

- **CRC Resolution No. 2008-002 – Non-Interference in County Administration** which incorporates a non-interference clause which is common place in government County Charters that provides for a prohibition of interference by the County Commission in matters relating to County Administration.

Mr. Weiss asked if it is the Chair's intention for the full CRC to vote on the matters today and put them on the ballot or if it is just a presentation.

The Chair replied that presentation will take place today and dialogue will take place at the next full CRC meeting.

- ***CRC Resolution 2008-003 – County Commission Meeting Rules and Voting*** which requires County Commissioners who recused themselves from voting on a specific matter being considered by the County Commission, pursuant to Chapter 112, Florida Statutes to leave the Chamber and not to communicate or participate in the discussion related to that matter at the time of the vote.
- ***CRC Resolution No. 2008-006 – Proposed Amendment to Article I of the Charter of Broward County entitled “Creation of County and Powers of Government”*** specifically creating Section 1.06 entitled “Broward County Regionalism Policy Statement” providing for the inclusion of a statement detailing the Broward County Government's duty to develop programs, policy and budget with a Countywide focus. The proposed resolution states that the County government should focus on areas of: *Regional Government, Airport, Comprehensive Planning, Economic Development, Environment, Regional Parks, Seaport and Transportation.*

Dr. Rosenbaum explained that proposed Resolution No. 2008-006 would give the County Commission a mission statement within the Charter.

CRC Resolution No. 2008-004 – Alternatives 1-5 Redistricting & Directly Elected Mayor.

Dr. Rosenbaum provided a brief explanation of the 5 Alternatives considered by the AGSC. He explained that the subcommittee had no recommendation on the subcommittee and they spent a great deal of time going back and forth considering the alternatives.

Mr. Goren: Explained the difference in the 8 plus 1, which are the starting dates of when they would take effect, which is why they look the same but they are different.

Dr. Rosenbaum asked if there are any questions.

The Chair called for questions in order of the resolutions, the first being Resolution 2008-002.

[Ms. West departed at this time 12:33 p.m.]

Ms. Eisinger explained as a member of the AGSC that the thought process behind proposed Resolution 2008-002 was looking at the State Ethics law and adding to it being more specific in order to protect the County Administrator.

Mr. Goren: This language that you have, Madam Chair, very quickly, you all looked at a number of different options. There are a number of different points of reference. This actually tries to harmonize the best of the best that you could find to give the most meaning to the intent which was, in fact, to provide for non-intervention but also to recognize the potential contact that may occur periodically and not be a violation of the Charter as well.

Mr. Rogow stated that there are a lot of words included that he is not sure how they play out. He asked what is presently in the Charter regarding non-interference ordinance.

Mr. Goren: One sentence which says the County Commission shall adopt a non-interference ordinance. There is nothing in the Charter besides that. The issue is to ratchet it into a Charter provision with clarity.

Ms. Tanner stated, where it would have said that all proposed revisions by the CRC must be submitted to the County the first Tuesday of June in the year which it expires.

Mr. Goren: That's in the Charter now.

Ms. Tanner stated that she was referring to *Resolution 2008-002*.

Mr. Goren: This is just simply the form of the resolution which is the same for each, which simply embraces what the Charter requires which is that you have a goal line to reach.

Mr. Rogow asked if anyone ever brought a mandamus action to compel the County Commission to adopt a non-interference ordinance.

Mr. Weiss explained that there are several items in the Charter that appear to put mandates on the County Commission but over time for whatever reason they haven't been done. Mr. Weiss further explained that it was the feeling of the subcommittee that this is an important provision and all Charters have very similar provisions which prevent lower level County staff from being interfered with.

The Chair called for questions in order of the resolutions, the Resolution 2008-003 – Recusal Requirement.

The Chair explained that Commissioner Lieberman could not stay but addressed something with regard to the recusal requirement with her as the Chair of the CRC. She stated that the way the language is written there may be a conflict. The Chair explained that Commissioner Lieberman's issue was not with the philosophy of the proposed resolution; however, she did suggest that in some places the language might need to change to say a private business would be the conflict. The Chair explained Commissioner Lieberman's example was that if she lives in a Homeowner's Association which requires voluntary membership and the Board of Directors of the Association makes a vote to sell their clubhouse and makes it an ALF so that the members would no longer have to ever pay dues. The Chair explained that when it came before Commissioner Lieberman it was not in her role as the County Commissioner but it was in her role of being a member of a Community and the way that she interpreted the resolution to be written, then she would have to recuse herself. Or if another Commissioner lives in an area that gets an independent district created and by the nature of the independent district they would have benefits from it.

Mr. Goren: Madam Chair, just to clarify. The Subcommittee – and with due respect to Commissioner Lieberman and this may not be an issue that she – you should be concerned about, but the way the Subcommittee reviewed the item, the decision to recuse or abstain from voting is a decision made by the elected official. It's typically where, as a public official you look inwardly and decide whether or not you have a conflict in the voting sense. Where the language was added to Subsection E, the objective of the Committee was in the event that the Commissioner went to the Mayor and said I have an ethical conflict and I can't vote or should not vote. The issue was to remove themselves from the dais. That was the main direction of the subcommittee.

Mr. Benson confirmed that the intent of the recusal is a self-initiated action by the elected official. He asked if it is not self initiated, if there is any other action that could happen to have a Commissioner recused?

Mr. Goren: That's a good question because you know you can't call the Ethics Commission at 9:00 in the evening. Often times your City Attorney has to give the answer or often times you've pre-asked the question before the meeting so you have your answer or at least the parameters of your answer. So to best respond, you can't know unless the fact driven question at that moment suggests that you might have a conflict. The statute as vague as it may be, also has clarity as to what the general parameters are as to what are conflicts. The Subcommittee did not want to delve into the issue of what the decision was to make the decision to recuse or to abstain. It was more to the issue of the physical removal from the dais. So they are not trying to analyze or over analyze what a basis was to recuse beyond the statute. Does that help?

Mr. Benson clarified his question asking what the conditions are in which a recusal needs to take place, when it in fact is not self initiated.

Mr. Goren: The answer is that the risk of not doing so opens up the potential for an ethics complaint to be filed against the decider who chose to vote. We can't know the answer. The speculation is who makes the decision about recusal or abstaining from voting; you do as a public official.

Mr. Benson asked what would happen with the phrase "private interest." He asked what it would do to clarify the resolution if that is the way the CRC wishes to go.

Ms. Eisinger reminded the Commission that State Statute, Chapter 112 dictates and tells specifically when the public officials need to recuse themselves.

Mr. Benson advised Ms. Eisinger that this is not his problem. The issue is that in the recusal process, that person leaves the dais; therefore, that person is not participating in the discussion or trying to direct the discussion or to help clarify issue that might come up as a result of the discussion.

Mr. Goren: The subject matter is a moving target because the evolution of a question may become an issue that didn't start out that way. The key words in the statute relate to special private gain or loss; it can be open to both by the way. The Commissioner was referring to the issue of what would the private gain or the private relationship was where in essence her vote on an issue affecting Woodlands for example, would that benefit her as a property owner among many or individually as an owner. That I guess is her dilemma in trying to clarify that issue. I still think that the ultimate decider of whether or not you have a conflict is the voting member.

Mr. Weiss advised that he too spoke with Commissioner Lieberman. He explained her position and advised that she mentioned the Special District and the Homeowners Association and she was suggesting that the CRC should think about whether they are trying to prohibit a Commissioner from participating / expressing a constituent position, even if they can't vote as opposed to participating in something where they were making money or they had a client or business interest.

Mr. Rogow stated that he believes Commissioner Lieberman was saying, it is overbroad because it requires her to leave the dais in a situation that she thought that may not be appropriate. He expressed concern advising that he is not sure that he agrees that you have to leave the dais and not even speak.

Mr. Goren: Just to highlight, this is part of what Norman Ostrau presented to the Board I believe at one of the subcommittee meetings. Under the current statute, under 112, an elected official who recuses himself or herself and abstains from voting is still permitted to debate the topic on the dais even though they've actually recused themselves and filed the appropriate voting conflict form. There was legislation that did not pass last year and the year before which tried to change that which did not get adopted. The objective of the subcommittee if I can speak to it very quickly, was that they wanted to make the Charter more restrictive which would essentially prohibit debate and also prohibit physical presence, because of the nature of physical presence alone having some factor in the conversation of the ultimate vote. That's what I believe we essentially tried to capture in their discussion with us.

Ms. Weeks explained that nothing changes with the proposed resolution because the official has to first declare the conflict. She stated that really everything is the same with the exception of the person having to leave the room.

Mr. Maus referring to Subsection E where it talks about the time of the vote asked, at what point the conflict has to be declared. He also asked if the conflict came up before engaging in the discussion.

Mr. Goren: That was Mr. Benson's factual scenario which is that these items can sometimes become fast moving targets that change depending upon what the issue is. Then there are some issues that you know up front that you have a conflict and you simply make the decision up front. I'm not sure that this provision actually timed the actual decision making. The assumption was from the beginning, unless of course the facts drove a different conclusion which you can't knowingly get involved in the debate. That's part of the ongoing problem.

Ms. Weeks reminded everyone that the Agenda tells if there is a potential conflict in advance.

Mr. Goren: We drafted this based upon your belief as a subcommittee that it occurred up front and that you make the decision up front.

Mr. Maus asked if the resolution could be worded more stringently so you refrain from any discussion as soon as the issue comes up.

Mr. Goren: Yes it can be made more stringent.

Mr. Weiss: agreed with Mr. Maus and requested Mr. Goren's office makes the language more stringent. He also pointed out that there is a difference in Appointed Boards vs. Elected Boards when it comes to the laws.

Mr. Benson: asked from a sentence structure point of view, after the word conflict, pursuant to Chapter 112 Florida Statutes as amended from time to time, is it to suggest that the following sentence "shall leave the dais and not participate in the discussion relating to the matter at the time of the vote" is that sentence to suggest that it's part of the Florida Statutes.

Mr. Goren: The last portion of the sentence beginning with “shall leave the dais...” is not part of the statute. All of E is not in the statute. “E” is our creation for the subcommittee.

The Chair directed Legal Counsel to look at the language. She advised that it is 1:00 p.m. and due to people who needed to leave the meeting needs to end on time.

The Chair tabled the remainder of the discussion until the October 24th meeting of the CRC.
The Chair called for Public Comment.

VI. Michael Buckner, Esq. – Better Broward Proposal

Item tabled to next meeting.

VII. Subcommittee Reports

- 1. Health/ Social Services – Mr. Wil Trower**
- 2. Land Use – Richard J. Weiss**
- 3. Public Safety – Mayor Debby Eisinger**

Items tabled to the next meeting.

VIII. New Business

Item tabled to next meeting.

XI. PUBLIC COMMENT

Dan Glickman, Deerfield Beach

Eight (8) months ago, then again four (4) months ago and then again today, I asked that the subcommittee consider adding four words to the public record for access by the public and those four words being “*and via the internet.*” My understanding is you were going to refer it to a Subcommittee. My understanding to the Subcommittee that I thought that it might go to, it has not gone to. I would like to see the public eventually through the Charter Review Commission, change the ballot question, being able to see on the internet all information, **publicly** available through the Freedom of Information Act or whatever it’s called here in Broward . I would like

that to be considered. I think it's a very important four words and I would appreciate it. Thank you.

[End Mr. Glickman]

The Chair called for any further public comments.

XII ADJOURNMENT

There being no further discussion the meeting was adjourned at 1:03 p.m. The next meeting of the full Charter Review Commission will be held on Wednesday, October 24, 2007 at 10:00 a.m. to 4 p.m. at the Broward County Main Library.

The minutes of this meeting are recorded on CD # 10.10.07 (BCGV CTR)