

Summary of Discussion
Broward County Charter Review Commission
Joint Administrative Issues / Governance and Transportation
Subcommittee Meeting
Wednesday, October 10, 2007
Broward County Governmental Center, Room 430
8:00 AM – 9:30 AM

Members Present:

Michael Buckner, Esq., Chair (TSC/AGSC)
Mr. David Esack (TSC)
Mayor Debby Eisinger (AGSC)
Ms. Patricia Good (AGSC)
Ms. H.K. "Petey" Kaletta (TSC)
Commissioner Ted Mena, Vice Chair (TSC)
Ms. Jodi Jeffreys-Tanner (TSC)
Mr. Bruce Rogow, Esq. (TSC/AGSC)
Dr. Irv Rosenbaum, Chair (AGSC/TSC)
Burnadette Norris-Weeks, Esq. (AGSC)
Richard Weiss, Esq. (AGSC)

Members Absent:

None

Others Attending:

Chedley Etienne, Administrative Assistant, CRC
Yolanda Grooms, Administrative Specialist, CRC
Phyllis A. King, Transcriber, PKING Consulting
Patricia G. West, Executive Director, CRC
Mel Wilson, Esq., Williams, Wilson & Sexton, P.A., Special Counsel

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

A joint meeting of the Broward County Charter Review Transportation Subcommittee and Administrative/Governance Subcommittee "Committee," "Subcommittee," "TSC," or "AGSC," was held at 8:00 a.m. on Wednesday, October 10, 2007 at the Broward County Governmental Center Room 430, Fort Lauderdale, Florida.

I. Call to Order/Roll Call

The Chair Michael Buckner, Esq. called the meeting to order at 8:11 a.m. and requested the roll call by Phyllis A. King of PKING Consulting, Inc. Upon completion of the roll, the Chair acknowledged the presence of a quorum.

Mr. Buckner provided a brief overview and purpose of the joint meeting.

[Ms. Weeks entered at this time 8:12 a.m.]

II. Discussion of the issue of the Realignment of the Airport and Seaport to provide Authority for the County Commission to Hire and Fire the Airport and Seaport Directors

Mr. Buckner asked Mr. Wilson to provide an overview of the study conducted by his firm for the Management and Efficiency Study Committee as it relates to the Airport and Seaport.

Mr. Weiss asked Mr. Buckner if there is a specific proposal for the subcommittees' to look at.

Mr. Buckner replied no.

Mr. Weiss confirmed that the purpose of today's meeting was to discuss whether the Airport and Seaport Directors should be hired and fired by the County Commission.

Mr. Wilson: Good morning, thank you Mr. Chair. My name is Mel Wilson; I am with the law firm of Williams, Wilson, and Sexton. Thank you for giving me the opportunity to give you just a brief summary of my firm's efforts of about a year ago, regarding an engagement by the Management and Efficiency Study Committee of Broward County. Before I begin, I think I need to clarify what we were not engaged to do. We were specifically asked not to look at the issue of governance, which I believe is what this Committee is considering, with respect to whether or not either one or more of the Port Directors should report to an Administrator or the Broward County Commission. Instead, we were asked to look from an administrative standpoint – were there any legal impediments to any administrative or administrative realignment of certain activities or functions related to the Airport as well as the Seaport in Broward County.

I want to underscore that we were primarily and initially focusing on those legal impediments. What we concluded after our initial review, is that the Airport and Seaport operating as departments or divisions within Broward County had no legal impediments for realigning certain

internal activities or functions. As a matter of fact, we also found in the Charter as well as in the Broward County Administrative Code that allows the Manager – the Broward Administrator - to appoint one person to be the Director of both. That was permitted without any administrative or legal changes and we issued an opinion to the Committee in that regard, but as we look at Ports around the country, I think there are about 130 to 140 Port Authorities of various sizes around the country. However, in terms of Seaports and Airports reporting to one governing body or entity, there's really only about 6 around the country and those 6 we included in a report that we submitted to the Committee. The 6 that we looked at and provided some background information related to **Massachusetts**, New York, New Jersey, Oakland, Olympia Washington, Portland, Seattle, Lucas County, and Bellingham, Washington. The similarities with respect to the Broward County Port Everglades and Aviation Departments are all of those Ports had governing bodies which were either appointed or elected similar to the Broward County Elected Official. In other words, all of those Ports operated in the context of having an Executive Director, perhaps unlike Broward County. The Executive Director who is responsible for both the Seaport and Airport operation reported to a Board that was either elected or appointed either by the governor of the State or by the local government, County Commission, or a combination of recommendations by the Mayor or Commission.

[Mr. Mena entered at this time 8:18 a.m.]

Mr. Wilson: The distinction that we noted is that the Executive Director for many of those Ports was a professional in the area of Seaport or Airport Administration, unlike Broward and Dade County where you have a County Administrator who is not a professional in that particular area. Each Port Authority had Deputy Directors that managed the day-to-day operations as it relates to the Seaport and the Airport operations. When we looked at some of the operations or the day-to-day activity in our report, I think we categorized it into three areas. One is we had Airport operation; we had Seaport operation which would be a particular specialty; we also saw that many of the Airports and Seaports – particularly the Seaport, they held in trust a lot of land that was used as commercial development or to generate revenue for the particular Port Authority. Real estate development and marketing was a significant aspect or activity of the Port operation and generated tremendous income to the particular authority.

The third area that we saw, were areas where there are organizations with particular expertise such as aviation. They also had areas of administrative support. If anything came out of the report that we provided, is that if Broward County were looking for opportunities for more efficient service or operation, those are administrative support areas that may provide some

opportunity so that the County Government can operate a little bit more efficiently. What do I mean by administrative support? Areas like Finance in a County, Security and Law Enforcement, certain Engineering functions, Legal Support, Public Relations, Marketing, and Information Technology. We suggested in our report that Broward County should continue to look, perhaps, a little bit more in depth at these particular areas to determine whether or not there are any efficiencies that can be realized by combining these administrative support services, so that the County could enjoy some efficiency.

Ms. Tanner asked Mr. Wilson what if there would be a separately hired Deputy Director for the Airport and Seaport.

Mr. Wilson: I think I would address that in two ways. If you are talking about having one Director – which I don't think you are at least at this point, then we find that there are Port Authorities with one Director, which is a Chief Executive or an Executive Director. There are fundamental operational differences between the operation of a Seaport and an Airport. Those entities, if you will, were simply managed by a deputy and I would not necessarily advocate that you have one Director over both. Certainly, these are some examples of where there was just one Director. Interesting enough in one of the Port Authorities, when they did their search for a Director, they found that they were getting applicants with expertise in one area but not the other. I would suggest that if you do attempt to combine the duties into one, you may end up getting someone with more experience in one area than the other.

Ms. Tanner advised that she cannot imagine having one person doing both jobs.

Mr. Wilson: The Boards were appointed by Elected Officials or the board members were elected themselves, and the individuals that ran the various Port Authorities were professionals in their respective area.

Ms. Tanner asked Mr. Wilson for his opinion regarding the need to have a Deputy Director, and use the County's Administrative Services for the Airport and Seaport.

Mr. Wilson: Maybe I need to clarify why we suggested looking at administrative services. What we found is that certain administrative functions for the Airport were solely contained. In other words, they might have had their own IT for Seaport operations, and then the County had its IT section. Naming the label of what you call them whether they're the Deputy or the Director I do not think it is that important. I think certainly, a Director could operate the Seaport reporting

to the Commission and a Director could operate the Airport reporting to the Commission just as they do now, reporting to the Administrator.

Ms. Kaletta asked if there is a precedent for having a Director of the Airport and Seaport have a contract, and basically that contract says they're responsible for certain things and having a report mechanism so they are autonomous in the decisions that they make. Their contract allows them to make decisions without having to come to the Commissioners for approval of everything.

Mr. Wilson: If I understand the question: whether or not a Director of the Airport or Seaport that has an overriding governing body, such as a Board or Commissioners, can make decisions irrespective of going to that Commission for authority. I think the general answer is no, but the Director would have whatever authority the Commission would give them as they see fit, but generally no.

Ms. Kaletta stated that it would be hard to work with having to get permission for everything; she asked would there be anything to keep that from happening.

Mr. Wilson: I am not sure I want to give a legal opinion because the governance issue was not an issue that we looked at for the purpose of our engagement.

Dr. Rosenbaum asked Mr. Wilson if there are any qualifications for the members of the Board that the proposed Director will answer to or could anyone be on the Board.

Mr. Wilson: While the numbers range from three member to 13 member Boards, we did not look at the prerequisites or the qualifications to being on the Board, so I probably can't answer that.

Dr. Rosenbaum asked staff to research to see if the Boards have any requirements to be on them.

Ms. Weeks agreed with Dr. Rosenbaum. She advised that she is more interested in the structure of the Boards.

Mr. Wilson: The six that I described earlier have both the Seaport and the Airport operations, and so there were about 130 or maybe more. There is a membership of Port Authorities and there are 140 around the country.

Mr. Mena apologized for his tardiness; he advised that there was a transportation problem in Broward County. He added that if the subcommittee wishes to make a Board that would help Airport and Seaport Operations, it should be made up of people who know about Airport and Seaport Operations. Mr. Mena advised that the gentleman that runs the Seaport is doing quite well; he does not need anybody telling him how to run a Port because he has been doing quite well so far. He suggested, however, that the Directors should be required to provide monthly reports to the County.

Dr. Rosenbaum stated that he believes that the size of the Port, Airport, and County government makes things difficult. He added that if you look at the track record of the major infrastructures that are built in this country, you will find out that most of them were built by Single Purpose Authorities. Mr. Mena asked Dr. Rosenbaum if he was suggesting that Broward County go back to the Port Authority type of governance. Dr. Rosenbaum replied no.

Mr. Weiss pointed out that Mr. Wilson is a very distinguished transportation attorney. He advised that he is not in favor of this, but stated that the concept being discussed is to have a private entity come in and run the Airport and be responsible to the County Commission.

Ms. Kaletta asked what if the Commission hires the Director and provides him with specific guidelines of his job.

Mr. Weiss advised that what Ms. Kaletta is describing is a typical structure with every government. Ms. Kaletta stated that the Commissioners want to have more input into who hires and fires. Mr. Weiss stated that he agrees with Vice-Mayor Wexler's proposal, which was that the Aviation Director and Port Director should report directly to the County Commission in addition to the County Attorney and County Auditor and he is interested in discussing that issue. However, he advised that he does not believe there should be another collegial body between the County Commission and the Ports.

Ms. Rogers suggested that the subcommittee focus on what they are trying to achieve.

Mr. Buckner asked if anyone had any questions for Mr. Wilson.

Mr. Rogow agreed with Mr. Weiss with regard to not adding another collegial body between the County Commission and the Port. He added that he believes that it would be a good idea to have the Director of either the Port or the Airport report directly to the County Commission. He advised that he believes it is better to have it through the County Manager's office.

Mr. Esack advised that the issue came up because of the difficulty in finding an Aviation Director. He is against consideration of turning the responsibilities over to the County Commission. He stated that he is not in favor of realignment.

Ms. Weeks advised that she agreed with Mr. Esack; she added that she too is not in favor of realignment.

Ms. Good advised that there is a problem with the process of how the individuals are being hired and suggested that the problem could be fixed by implementing internal measures between the County Commission and the County Administrator. She added that for the most part, the system that is in place is acceptable.

Ms. Eisinger agreed that there does not need to be another level of bureaucracy.

Dr. Rosenbaum stated that he does not believe the Charter should be changed to deal with this problem, but needs to open the door to give the County Commission some flexibility in terms of the growth of the Airport and the Port. He stated that he wished to give the County Commission the tools and he believes the current structure needs to be looked at.

Mr. Buckner asked Dr. Rosenbaum what tools he is referring to specifically.

Dr. Rosenbaum replied that he specifically wished to give them tools, not just the ability to create a separate independent entity or a dependent entity for the operation of the Airport.

Mr. Goren: Just two quick things, there are multiple dependent districts throughout the County now particularly in drainage. What you are speaking about is a countywide organization, a countywide dependent district, which has other constitutional implications in the context of approval by municipalities affected by the countywide opportunity. That is an issue that you have to look at very carefully. It is not just a magic wand that you can put over it, with all due respect. To the issue coming up later on the MTA, for example, we settled that issue; there are limitations because of that. We try to balance the inquiry of the full Board or the subcommittee on the power of authority premise. That also applies here, so be wary of the fact that there are limitations under the countywide district.

Dr. Rosenbaum suggested that the best course of action for the subcommittee would be to recommend an additional study of that area.

Mr. Mena referred to the County's Organizational Chart and advised that there is a problem with it. He believes that the Port and Airport Directors should report directly to the County Administrator not to a Deputy County Administrator, he advised that he agree with the consensus of the subcommittee.

Ms. Tanner agreed with Mr. Mena, she suggested restructuring of the Organizational Chart.

Ms. Kaletta advised that she does not know if anything should be done with the Charter. She believes one thing that was said, was the length of time for a decision to be made if you are in a position of working with customers. Ms. Kaletta stated that she finds it very inefficient that the Aviation Director or Port Director have to go through a chain of command before decisions are made.

Mr. Weiss suggested that the subcommittees have the ability in the Charter to make recommendations; previously the committee did not make any non-binding recommendations in the Charter. He recommended that the Charter Review Commission make a recommendation to the County Commission that the Port and the Airport Directors report directly to the County Administrator. He does not believe it requires a change to the Charter; the subcommittee can either put this in the Charter or make a suggestion.

Ms. Weeks stated that she does not believe that reporting to the Deputy Administrator is the problem, as Ms. Henry does a good job. She added that she does not see that there is a major problem. Ms. Weeks suggested that now that the New Aviation Director has been hired, the subcommittee should let the current process work.

Ms. Eisinger advised that in looking at the organizational chart she believes there is a problem. You are looking at the Airport and Seaport, they are five layers removed from the electorate. She advised that the Directors should come directly under the County Administrator because the County Administrator is accountable to the County Commission and she would absolutely support changing the structure of the County through the Charter.

Ms. Kaletta clarified that the comments have nothing to do with Ms. Bertha Henry; it is just a structural thing.

Ms. Weeks stated that ultimately all positions are under the County Administrator; the County Administrator cannot do everything. She also stated that it could be a recommendation, but to

go as far as the Charter reaching into County government, the subcommittee is doing exactly what was agreed not to do.

Mr. Rogow advised that he believes that it is fine that the Directors go through the Deputy Administrator. He added that having a little bit of space between them and the County Commission is good. He pointed out that neither Airport nor Seaport Directors have complained, and asked why tinker with this as a non-binding recommendation when there has been no problem. He suggested leaving it alone as the subcommittee is making a big issue out of something that is so far not an issue.

Ms. Rogers asked Mr. Goren if the County Commissioners approve the organizational structure of the County.

Mr. Goren: Aside from the Charter Officers that was discussed earlier, the County Attorney, the County Auditor, and the County Administrator who work directly for the County Commission, my best guess and best understanding of this situation is that when the County Commission annually budgets and creates its annual appropriations it sets up essentially this chart that you are looking at, with regarded control all under the County Manager. What you are speaking about in the context of a hypothetical Charter change, would actually mandate as a specific mechanism or structure. At the moment the County Commission by its annual budget and millage decisions, creates the budget for these positions. Then the County Administrator has the obligation of structuring the County government in that respect. Anything below that line is really the County Manager's obligation. To the extent that this Charter Review Commission has an interest in changing the Charter to mandate operational affairs in that regard, certainly that is your prerogative, but that is not how it is laid out here legally.

Ms. Kaletta stated that her concern goes back to the fact that this was addressed and that there are specific problems. She stated that when there is a problem with the functionality of both the Airport and Seaport from an operational point of view, this may not be something that the Charter needs to deal with. Ms. Kaletta advised the subcommittee members that she likes the idea of giving a contract to the Director and having them be responsible for doing what has to be done with minimal support.

Mr. Buckner stated that in the past few County Commission meetings, the Commissioners have referred to the entities as being businesses. The question is whether or not the CRC should look at those entities as businesses as most corporations have Boards and Directors. He advised that there has been discussion among the County Commissioners about trying to look

at both Ports (Airport and Seaport) and trying not to make political decisions, but trying to make decisions that are going to better the business aspects of both of those operations.

Mr. Weiss pointed out that the current Charter states that the *County Administrator* must provide an organizational chart once per year.

Mr. Goren: The reason is because it is budget driven. Annually the budget is created and you have to create positions and that is where it comes from in the Charter.

Dr. Rosenbaum MOTIONED to send a non-binding recommendation to the full Charter Review Commission that will have the Port and Airport placed in the Organizational Chart of reporting directly to the County Administrator. Ms. Tanner SECONDED.

Mr. Goren: The motion is actually to the full board to make that recommendation.

Mr. Buckner called for discussion of the motion.

Mr. Rogow advised that he is against the motion because he feels it is unnecessary use of the small powers that this subcommittee has.

Mr. Mena expressed concern with the fact that the proposed action is non-binding. It could be dropped off at the Commission level. He suggested that the recommendation be binding.

Mr. Mena added a friendly amendment to Dr. Rosenbaum's MOTION suggesting that the recommendation be binding.

Mr. Goren: You can make any number of non-binding recommendations – all are in theory to be considered by the County Commission. In practice, to make a binding recommendation requires a Charter amendment which then becomes by its own terms operatively binding. If it is voted on by the electors, that is the legal distinction. If it is a binding obligation or binding term, it is going to the voters as a condition of voter approval.

Mr. Mena advised that he would like to see the issue go to the voters. Mr. Buckner asked Dr. Rosenbaum if he accepts Mr. Mena's amendment. Dr. Rosenbaum replied respectfully no.

Mr. Goren: It is not a friendly amendment. It is an alternate motion.

Mr. Mena MOTIONED to send a binding recommendation to the full Charter Review Commission that will have the Port and Airport placed in the Organizational Chart of reporting directly to the County Administrator, SECONDED by Ms. Eisinger.

Mr. Buckner called for discussion on Mr. Mena's motion.

Ms. Eisinger agreed with Mr. Mena and advised that she supports his motion; she stated that although she is not sure where in the Charter it is stated, but it is stated in the Charter that the County Administrator designs the structure.

Mr. Buckner asked Mr. Goren what area of the Charter Ms. Eisinger is referring to.

Mr. Goren: 3.04 subsection B, at the bottom of page 11, which is under the Administrative Code section.

Dr. Rosenbaum advised that an amendment would require a whole process and he does not believe it would be necessary.

Ms. Rogers asked how Mr. Mena's amendment would affect comments from the public as it relates to the expansion of the Airport. She added that there are specific concerns in communications from the public; she advised that the public is saying the County Commission was negligent and it took a long time to make the Airport/Seaport decisions. If the subcommittee is trying to fix something, she does not see that anything will be achieved by making the recommendation. Ms. Rogers stated that she is not sure how the proposed amendment will address the public's concerns.

Ms. Eisinger stated that the non-interference clause applies to the Commission's interference with the Directors of the Port and Airport. She advised that if the vote does not pass, she will vote in favor of Dr. Rosenbaum's motion.

Mr. Rogow advised that he does not believe that amending the Charter to say that the Director should report to the County Administrator speaks well to the role of the Charter Review Commission.

Mr. Weiss stated that he believes the motion on the floor would solve the problem; he added that he does not believe that the Charter should be changed and that the County should be moving towards a regional type of government. He also stated that there should be only a couple of functions that the County Commission should have, such as Airport, Seaport,

Libraries, and Transportation. Mr. Weiss stated that the reason he supports Dr. Rosenbaum's motion has nothing to do with the Airport, but that he is not ready to restructure the County Government. He advised that he will vote in favor of Dr. Rosenbaum's recommendation. Mr. Weiss stated that he has seen this work in Dade County and it has changed things for the better.

Ms. Kaletta asked where the Assistant County Administrator fits into the picture.

Mr. Mena WITHDREW his MOTION.

The Chair called for a roll call vote on Dr. Rosenbaum's MOTION to send a non-binding recommendation to the full Charter Review Commission that will have the Port and Airport moved in the Organizational Chart to a position reporting directly to the County Administrator, SECONDED by Ms. Tanner.

Michael Buckner	No
Debbie Eisinger	Yes
David Esack	No
Patricia Good	No
Petey Kaletta	Yes
Ted Mena	Yes
Hazelle Rogers	No
Bruce Rogow	No
Dr. Rosenbaum	Yes
Jodi Jeffreys-Tanner	Yes
Burnadette Norris-Weeks	No
Richard Weiss	Yes

Motion **FAILED** with a tie vote of **6:6**.

Mr. Buckner asked if the subcommittee had any questions or comments.

Mr. Weiss advised that he believes that wording of what the subcommittee has discussed is important. He stated for the record *that the subcommittee has recommended that there be no changes to the Charter dealing with this issue.*

Mr. Goren: This is a report to go to the full Charter Review Commission.

Mr. Buckner replied yes.

Mr. Esack asked if Transit Oriented Development (TOD) falls under this issue. Ms. West replied no; she stated that there is a meeting that needs to be scheduled for that issue.

Ms. Eisinger advised that the subcommittee made recommendation but not a Charter change. Mr. Weiss explained that the subcommittee made a recommendation that there be no recommendation.

Mr. Goren: You did something today and it does have meaning, and the meaning is that you did have a tie vote. This means that nothing happened legally, but by taking that action, you take an action to report back to the full Board.

Mr. Buckner asked if there were any questions or comments. Mr. Buckner called for public comment.

III. Public Comment

None

IV. Adjournment

Ms. Good MOTIONED to adjourn the meeting, SECONDED by Ms. Weeks and the MOTION passed unanimously.

There being no further discussion and no additional comments the meeting was adjourned at 9:36 am.

The minutes of this meeting are recorded on CRC-JOINT-TSC/AGSC CD # 10.10.07 (BCGV CTR)