

**Summary of Discussion
Broward County Charter Review Commission
Transportation Subcommittee Meeting
Tuesday, November 20, 2007
Governmental Center, Room 430
10:00 AM – 2:00 PM**

Members Present:

Michael Buckner, Esq., Chair
Commissioner Ted Mena, Vice Chair
Ms. Jodi Jeffreys-Tanner
Mr. Bruce Rogow, Esq.

Members Absent:

Mr. David Esack
Ms. H.K. "Petey" Kaletta

Others Attending:

Jim Cummings, Broward Workshop, Chair
Chedley Etienne, Administrative Assistant, CRC
Dan Glickman, Deerfield Beach resident, Public
Yolanda Grooms, Administrative Specialist, CRC
Maria Gross, Assistant Director, CRC
Alfreda S. King, Transcriber, PKING Consulting
Joe Quinty, Transportation Planning Manager at SFRTA/Tri-Rail
David Tolces, Assistant General Counsel
Lisa Vondrak, News-Abstracts.com
Patricia G. West, Executive Director, CRC

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

A meeting of the Broward County Charter Review Transportation Subcommittee "Committee," "Subcommittee," or "TSC," was held at 10:00 a.m. on Tuesday, November 20, 2007 at the Governmental Center Room 430, Fort Lauderdale, Florida.

I. Call to Order/Roll Call

The Chair Michael Buckner, Esq. called the meeting to order at 10:17 a.m. and requested the roll call by Alfreda S. King, of PKING Consulting, Inc. Upon completion of the roll, the Chair acknowledged the presence of a quorum.

The Chair advised the subcommittee that he wished to have a moment of silence for the former Charter Review Commission member **Mr. Howard Zimmerman** who passed away Thursday November 15, 2007 losing his battle with Leukemia.

II. Approval of Summary of Discussion of September 6th, 2007 Subcommittee Meeting

Mr. Rogow MOTIONED to approve the Transportation Subcommittee Summary of Discussion dated September 6th, 2007; Ms. Tanner SECONDED and the motion passed unanimously.

The Chair advised that items 3 and 4 on the agenda will be combined. He added that the current memos were prepared by General Counsel in regard to some questions that he had as well as issues that were brought up during the last full Charter Review Commission meeting when the TSC proposal was discussed.

The Chair gave Mr. Tolces the floor.

Mr. Tolces: Thank you Mr. Chair, I don't know if you want me to go through the memos or if you just want me to answer any questions that you all may have.

The Chair advised Mr. Tolces that he wished to have the highlights or a summary of what was changed.

III. Discussion of Legal Memoranda:

a. 2007-017 – Clarification of Issues raised by Transportation Chair regarding Authority and Functions of MTA (October 9, 2007).

Mr. Tolces: The first memo is Memorandum No. 2007-017; there were 2 questions that were raised concerning the original MTA proposal which was that the MTA was contemplated to be an independent body and would have hiring and operational control, and then there was a question regarding who would perform the human resources functions for the MTA. As we explained in our Memo, that would run through the County's Human Resources Department, as

well as use of the County's Budget Office, and Purchasing Department as well, with respect to purchases that the MTA would make.

The second issue had to do with setting the fares. Who would have final authority for setting fares? Ultimately that decision as to how much to charge for fares would have been left in the hands of the County Commission. It is still in the hands of the County Commission because they have ultimate authority to approve the County's budget. Those funds that are collected as fares are used as part of the County's budget. In addition, the MTA was not going to have the authority to sign its own contracts. I had spoken with Mr. Sniezek of the Planning Council and he confirmed with me, that, as they operate right now, they sign their contracts through the County, not as a separate entity. So that's the sum and substances of Memorandum number 2007-017.

b. 2007-021 – Legal options for creating an independent MTA (October 26, 2007)

Mr. Tolces: The second Memorandum that we provided is 2007-021, which was a supplement to our previously issued memos that were issued back in July, 2007-008, and 2007-016 that was issued earlier in the month of October. This addresses the various potential mechanisms for establishing an MTA as a Special District – well, I shouldn't say as a Special District. Two of the options were a Special District and the third was as an Advisory Board. The first option was creating the MTA as a Special District through the act of the Legislature. We discussed in this memo, how it's not necessarily within the providence of the CRC to direct the County to direct the Legislature to adopt a special act to create an MTA. Certainly if the CRC wanted to request the County Commission somehow take some type of non-binding referendum or straw ballot to see if that was the way the citizens want to go, that would be a possibility. However, it would ultimately be up to the State Legislature, much like they did with the South Florida Regional Transportation Authority (SFRTA) to establish a Special District through a special act of the Legislature.

The other option was to create a Dependent Special District pursuant to Chapter 189 of the Florida Statutes. The issue with this is if the County wants to create a Dependent Special District – that each of the municipalities within the County would also have to sign on to that as well, unless there were aspects of it that weren't going to go into specific municipalities. It was our assumption that because it was going to be on a County-wide basis, it would have to be approved by each municipality. We then go into issues related to how the governing body for that type of Special District would govern the transit issues in the County. I also do want to

correct – as Pat earlier stated - that it is the Metropolitan “Transit” Authority and not Metropolitan Transportation Authority.

Finally, in our Memo, we discussed the potential for having the MTA as an Advisory Board to the County Commission; that is consistent with the direction that the full Charter Review Commission took at their meeting in October. In light of the action that the full Board took, we went forward and prepared a revised resolution, which I provided to you this morning – I apologize for not getting it out sooner. Due to some miscommunication it wasn’t provided. But, you have that now in front of you this morning. That is the sum and substance of Memorandum 2007-21.

The Chair asked if there were any questions or comments.

Mr. Mena asked Mr. Tolces if the TSC is proposing an Advisory Board with no powers of any kind, unless the County Commission wishes to give any.

Mr. Tolces: The MTA would have the power to make recommendations, and potentially if they’re going to hire an Executive Director, that is contained in the proposed resolution. As far as the power to operate the transportation facilities or the transit facilities, that has been taken out of this proposed resolution.

Mr. Mena advised that he is hearing from people that what the TSC is proposing is to eliminate the MPO and the RTA. He advised that he informs anyone who is concerned that the MTA has nothing to do with the other entities. He added that there needs to be clarification in writing; he stated that the MPO, RTA, and the proposed MTA should work together.

The Chair expressed concern with confusion of the elected officials over the language of the proposed resolution.

Mr. Mena stated that there is a misconception that the MTA would be an independent authority that would have nothing to do with the MPO. He added that there is a lack of leadership and communication. Mr. Mena added that he would like to make it perfectly clear that the MTA is an Authority that will work with other Transportation Authorities.

The Chair pointed out Section 12.05 E in the proposal which states that the MTA would work with all pertinent County, State, and Federal Agencies and entities including any local Transit and Transportation Planning Organizations.

The Chair asked if there were any other questions or comments.

Mr. Tolces: The only suggestion I could make if you wanted to make it clearer would be, maybe to insert the word *coordinate* into that same paragraph, and to include the names of any specific agencies that you want to put in there. So they know that they're being considered.

Ms. Tanner advised that the reason the subcommittee did not want to list the agencies is because they didn't want to leave anyone out of the creation of an agency.

Mr. Mena advised that the perception that's out needs to be changed. He added that he was appalled when the MTA was shut down at the full CRC meeting.

The Chair asked if there were any further questions or comments, there being none the Chair moved to the next item of business.

IV. Review Revised Metropolitan Transit Authority Proposed Resolution 2008-001

The Chair advised that on behalf of himself, he submitted a letter to the Miami Herald and Sun Sentinel Editorial Boards which addressed the MTA Proposal. He went through the various issues that were included in his letter and presentation.

Ms. Tanner asked if she should start with her comments.

The Chair requested Mr. Tolces go over what has been changed and advised that questions and comments will be addressed afterwards.

Mr. Tolces: Pursuant to the full Charter Review Commission's direction, we tweaked the Resolution to provide for the MTA to be an Advisory Body. So, to the extent that the prior Resolution that you have in your packet provided for an affirmative obligation or right on behalf of the MTA to plan or develop or construct, we removed that language such as what was in 12.02 A, and took that out and said, "proposed recommendations" to the County Commission regarding the planning, development, financing, and construction to assist the County Commission in fulfilling the commitment to a comprehensive multi-modal public transit system. We used terms such as "facilitate" and "recommend." You see that primarily in section 12.02 and if you go to section 12.05, we also have those words "recommend" to the County Commission. The only item which we are not certain of was with respect to employment of an Executive Director; so we highlighted that and indicated it to be discussed. I wasn't sure if there was any discussion specifically regarding whether or not the MTA could actually employ an

Executive Director or it would just be someone currently on the County staff appointed to represent or work with the MTA. That was our goal in revising this resolution to provide for a change from affirmative action to more of an advisory body that makes recommendations ..

Mr. Rogow suggested that the word “coordinate” would not be a good idea because that word makes it sound as though the MTA has more power and may scare off other MPO’s. He inquired about 12.03 F regarding any financial interest, and suggested taking that language out.

Mr. Rogow MOTIONED to remove the word “coordinate” and delete the financial interest paragraph from section 12.03 F.

The Chair explained why he wanted the financial interest language to remain in the proposal. He added that if the MTA was going to be operating with large amounts of money, he wanted it to be as transparent as possible.

Ms. Tanner asked if this is written in the Broward County Coordinating Board’s language and if it really has to be in the proposal.

Mr. Tolces: I’d have to look; I don’t have that language right at my finger- tips.

Ms. Tanner advised that there are rules that are required to be an Advisory Board for Broward County.

Mr. Tolces: I don’t know if it is a blank prohibition or if it’s just a “they shall not participate in matters” in which they have a financial interest. That’s something we can look at in order to make it consistent with either whatever is in the County Charter or what’s in – they will have to comply with whatever County ordinances or policies are in place anyway.

Ms. West advised Mr. Rogow that staff will review what the policies are, and if it is consistent, she asked Mr. Rogow if it is okay to leave the language in.

Mr. Rogow replied if it is consistent you can leave it in.

Mr. Tolces: I guess my comment was that it probably can be removed because if they’re going to be appointed to an advisory body, they are going to have to comply with whatever rules or regulations that are in place.

Mr. Rogow WITHDREW his MOTION.

Ms. Tanner expressed concern with the word *pertinent* in section 12.05 D, and suggested that the subcommittee use another word. The Chair suggested the language “including but not limited to.”

Ms. Tanner agreed with the Chair.

The Chair proposed to change section 12.05 D to indicate and make it clear, “Work with all Transportation and Public Transit, County, State, and Federal agencies and entities, including but not limited to, the Broward Metropolitan Planning Organization and the South Florida Regional Transit Authority to implement the purposes and duties as provided in the Charter.”

Ms. Tanner MOTIONED to change section 12.05 D to indicate and make it clear, “Work with all Transportation and Public Transit, County, State, and Federal agencies and entities, including but not limited to, the Broward Metropolitan Planning Organization and the South Florida Regional Transit Authority, to implement the purposes and duties as provided in the Charter.” Mr. Mena SECONDED. The motion PASSED unanimously.

Mr. Rogow questioned the authority of the proposed MTA.

The Chair asked the subcommittee if they wish to go forward with the proposed MTA.

Ms. West stated that the subcommittee has worked very hard on this matter and hope that they can start with the MTA and build on it in the future.

Ms. Tanner advised that she believes the TSC has a great opportunity to have an MTA even though it is watered down; however, it would make a difference.

Mr. Mena stated that the TSC is planting a seed that would grow in the future and agreed that the MTA has become watered down; it would be better to put something through. Mr. Mena advised that the County needs to work with the cities to see what they want.

Mr. Rogow advised that he wished to go along with the proposed MTA.

The Chair suggested rather than having all appointed members, there should be members from certain industries such as the legal profession and engineering. He also suggested changing the MTA from an Authority Board to an Advisory Board.

Mr. Rogow advised that he does not wish to change the name of the MTA.

Ms. Tanner agreed with Mr. Rogow, and added that the name gives the MTA a lot of room to move forward and to be all inclusive towards regionalism. She suggested adding bus and rail riders to the membership of the Board.

The Chair stated that there will be categories for bus and rail riders on the membership of the MTA.

Mr. Tolces: For drafting purposes, do you want us then to stick with the seven (7) member board?

The Chair advised that this is an issue the subcommittee will continue to discuss and asked the subcommittee for their thoughts of an Executive Director for the MTA.

Ms. Tanner advised that she does not think there needs to be an Executive Director.

The Chair advised that he would like to take out section 12.03 H- a through c and 12.05 A.

The Chair opened the floor for Public Comment

V. Public Comment

Mr. Dan Glickman - Deerfield Beach, FL

Mr. Glickman: As I look at the old and the new, I have a question for counsel since he drafted the new, and the new paragraph. I believe it is on page 5 which is section 12.06. There is an item on the page that says “words in strikethrough” and “words in underscore,” what’s missing from this page and this is what I am going to be asking general counsel if he would share his reasoning for why he didn’t include it in section 12.07 and strike it through completely.

Mr. Tolces: The Resolution as presented are what would be the changes to the County Charter; we did not reflect changes to the prior revisions, but just assuring what the actual change to the County Charter would be. 12.07 is not currently in the Charter; so it would not be struck through and it is not part of this proposal now; so it wouldn’t be shown in any manner.

Mr. Glickman: Taking out completely the Citizen’s Advisory Board, which is major detail-gathering citizen input to the Board of Trustees, I would not support what you have. To call this a Metropolitan Transit Authority is deceptive to the voters -- it has no authority. Calling it a Metropolitan Transit Advisory Board – that is fine ,but calling it otherwise is deceptive in my view. I think at this point you folks are now facing what all other elected officials go through, one

never wants to sacrifice the good for the perfect. There are lots of ways to compromise and have something useful even though you can't get it all and that's the perfect vs. the good. However, having no authority whatsoever and having only a Board of Trustees without the citizens' input on a large scale – telling the Board of Trustees what they need to know – those 5, 7, or 9 folks are not going to be involved with riding transit. If they ride tri-rail we would be surprised if the majority of them even do that. So, I think even if you expand the numbers on the Board of Trustees, I would bifurcate and have both. That is all I have to say, thank you.

Mr. Tolces: In drafting this new proposal we deleted the Advisory Council because we did not contemplate having an advisory body to an advisory body. But if it's the subcommittee's decision to include it, we can certainly do that.

Ms. Tanner suggested including a Citizen's Advisory capacity within the Board of Trustees somehow.

Jim Cummings – Public Comment

Mr. Cummings: I have several comments. Number 1 – I think as you said categories are important for the people who are on this Commission. I think there should be professional categories. I also think the Citizen's Advisory Committee is certainly something that is needed. There should be a user citizen on the full Board because they're important. There's one other thing I wanted to address; this is just a small step – I know you got a setback because it is not what you all wanted, but I don't think that the public is ready for what you wanted, mainly because of the tax situation and the property taxes that we are looking at right now. I think it is more important that we get something passed in order to make the next step. I think what is needed is a group that will actively pursue advocacy and education of our Commission. As I said I think this is a step in the right direction. 12.05 C says "Serve such other regional purposes and to perform such other regional functions as authorized by State law or the County Commission". When I read that, it appears to me that the County Commission could give you the authority to take a look at transportation. With that assumption of that reasonably comes a lot more money. I think ultimately that's what you should be doing. Have an Authority to control all of the transportation within Broward County. The way I look at this issue is – get 7 or 8 people on this Commission and then you get the citizens to come forward and you go before that County Commission and say, "look we're here by virtue of this Charter; this is the authority you have given us, and what we have seen after 2 years of evaluating the situation is that we need an authority that will handle the transportation problems in Broward County and we want

to be that authority.'. I think this is the step in about 2 years. I think that's where you should be with this. That's all I have to say.

The Chair asked Mr. Cummings what special categories he would recommend that should sit on the Board of Trustees.

Mr. Cummings: I think obviously you need some legal representation, and people that know something about transportation. There are a lot of law firms – for example, the one we have on the RTA, they specialize in transportation initiatives. We need to know how you go about getting funding from the federal government. You need some engineers, and there are a lot of engineering firms here that do mass transit; their information is valuable. You need someone who knows something about construction. I think I got put on the RTA to handle their double track use; that I spent the last 5 years doing. So, I think that's important; one of the things that I think is important is the citizens' input, because as he said, a lot of the people on the committee will not ride the transportation system and you do need the input from somebody that could give you a point blank statement.

Mr. Tanner MOTIONED to approve the resolution 2008-001 and incorporate the changes including the possibility of adding different categories of membership, Mr. Mena SECONDED and the motion PASSED unanimously.

[Mr. Rogow departed at this time 11:03 a.m. leaving the Transportation Subcommittee without a quorum]

The Chair called for any other public comment

Mr. Glickman: Realizing, of course, that Mr. Rogow has left, there is no quorum, the name of the authority is such an important thing and unless I see and there are in fact real authority in some respect calling it an authority, I believe it is a great disservice. So, please keep that in mind as you continue on with your deliberations that you do. Thank you.

Ms. Tanner advised that there are different ways to look it as an *authority*, and she does not feel that leaving the word authority in the name would be a problem.

Mr. Tolces: We did revise the ballot language to reflect the fact that it is an advisory body.

Mr. Mena suggested that the subcommittee take a look at gas taxes and where those funds are allocated.

Next Meeting

The Chair advised the subcommittee that Ms. West will contact everyone with the details of the next Transportation subcommittee meeting. The Chair asked if there were any other comments.

VI. Adjournment

There being no further discussion and no additional comments the meeting was adjourned at 11:08 am.

The minutes of this meeting are recorded on CRC-TSC CD # 11.20.07 (BCGV CTR) (Pat: I will let Phyllis know that the date is wrong so she can correct her records.)