

Clearwater, Florida, February 3, 2016

A meeting of the Pinellas County Charter Review Commission (CRC) (as created by Chapter 80-590, Laws of Florida) was held at the Pinellas County Utilities Building, 4th Floor Conference Room, 14 South Fort Harrison Avenue, Clearwater, Florida, at 3:31 P.M. on this date with the following members in attendance:

James Olliver, Chairman  
Thomas Steck, Vice-Chairman  
Sandra L. Bradbury, City of Pinellas Park Mayor  
Ken Burke, Clerk of the Circuit Court and Comptroller  
Johnny Bardine  
Keisha Bell  
Ashley Caron  
Barclay Harless  
Todd Pressman  
James Sewell  
Joshua Shulman

Absent

Larry Ahern, State Representative  
Janet C. Long, County Commissioner

Also Present

Wade Vose, Vose Law Firm, General Counsel  
Diane Meiller-Cook, Diane Meiller & Associates, Inc. (DM&A), Facilitator  
Flo Sena, DM&A  
Other interested individuals  
Laura M. Todd, Board Reporter, Deputy Clerk  
(Minutes by Helen Groves)

AGENDA

1. Call to Order (CRC Chairman)
2. Public Comment on Items on this Agenda (CRC Chairman)
3. Approval of Minutes – January 20, 2016 Meeting (CRC Chairman)
4. Legal Counsel Report (Vose Law Firm)

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5. Facilitation Team Report and Direction (DM&A)
  - a. Schedule and Budget/Spend Status
  - b. Format for Term Limit Meeting, 2/17
  - c. Recommendations List
6. Charter Amendment Topics
  - a. Move County Seat (#26) (Vose Law Firm)
  - b. Grievances (#24) (M. Harrison, Guest)
  - c. Exception to Code on Non-Conforming Properties (#25) (Thomas Steck)
  - d. Selection of CRC Members (#4) (DM&A)
  - e. New Topics from CRC Members
  - f. Scheduling Next Topics
7. Review of Action Items (CRC Chairman)
8. Adjournment (CRC Chairman)

#### CALL TO ORDER AND OPENING COMMENTS

Chairman Olliver called the meeting to order at 3:31 P.M. and welcomed those in attendance; whereupon, he announced that the Commission will take up the topic *Municipal Partisan Elections*, submitted by a member of the public, under Agenda Item 6-e.

#### PUBLIC COMMENT

In response to the Chairman's call for persons wishing to be heard, the following individuals appeared and expressed their concerns:

David Ballard Geddis, Jr., Palm Harbor – Reclaimed Water “Variance” Violates Home Rule Charter

Chairman Olliver requested that Mr. Geddis submit a Public Input Form so the topic can be added to the discussion list; and asked that Attorney Vose take the matter under advisement and provide a way to further the reclaimed water discussion in relation to the Charter.

H. Patrick Wheeler, Palm Harbor – (1) Forward Progress and (2) Addressing Key Items

Clerk Burke reported that his office is developing an input form for items on the Board of County Commission (BCC) agendas that will allow citizens to submit their comments and concerns electronically; and that the comments will become part of the public record and be sent to each of the Commissioners and the County Administration; whereupon, he explained how the process will work, noting that it is hoped the BCC website will provide a link to the public comment form.

MINUTES OF JANUARY 20, 2016 MEETING – APPROVED

Upon presentation by Chairman Olliver, Mr. Steck moved, seconded by Mr. Sewell and carried unanimously, that the minutes of the meeting of January 20 be approved.

LEGAL COUNSEL REPORT

Attorney Vose provided a financial report as requested by Commissioner Long at the last meeting, and reported that a total budget of \$50,000 was allocated by the County for legal services; that, to date, his firm has billed 111 hours for a total amount of \$16,650; and that he does not anticipate using the entire \$50,000.

FACILITATION TEAM REPORT AND DIRECTION

SCHEDULE AND BUDGET/SPEND STATUS

Ms. Meiller-Cook presented a document titled *Diane Meiller & Associates Budget/Spend Analysis*, a copy of which has been filed and made a part of the record, and reviewed each line item. She indicated that the firm's original proposal to the County was \$46,975; that \$35,360 has been billed; and that \$11,615 is still available. She related that Pinellas County allocates a specific amount intended to fund both the legal counsel and the facilitator, and it might be possible to combine the two budgets. Mr. Sewell pointed out a discrepancy in the Research and Scheduling line item, and following discussion, Ms. Meiller-Cook agreed that an adjustment is in order; whereupon, in response to the concerns of Mr. Pressman, Ms. Meiller-Cook indicated that she would be open to ideas to streamline documentation.

Stating that Ms. Hardwick has confirmed that the legal and facilitator budgets could be combined, Chairman Olliver commented that while the Commission will remain budget conscious, he would not want there to be a public perception that discussion or documentation is being curtailed because of budget concerns.

FORMAT FOR TERM LIMIT MEETING, 2/17

Ms. Meiller-Cook requested that everyone participate in the term limit discussion scheduled for the February 17 meeting, and proposed that each member be given three to five minutes to voice their thoughts, and no objections were noted.

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Attorney Vose indicated that he would provide an overview of the subject and explain the legal options available. He cautioned that the public would be requesting “retrospective” or “retroactive” term limits; and that while he would share his legal thoughts, very little case law exists, and what there is differs substantially.

Mayor Bradbury asked that statistics be provided showing the number of counties in the Southeast that have term limits, particularly in Florida. Noting that the members have already received excellent and very detailed information, Mr. Pressman asked that Attorney Vose present only a general overview of the subject. Mr. Steck requested that for the different situations, such as the prior referendum vote or term limits for County Commissioners or Constitutional Officers, Attorney Vose advise whether the CRC is legally limited or whether the law is flexible.

Attorney Vose asked for direction regarding the amount of time the members would like him to spend on the prior vote issue, pointing out that he has already advised that, in his opinion, the CRC cannot revive the prior term limits. Ms. Bell indicated that she felt a presentation would be beneficial. Clerk Burke referenced a timeline summary he had requested from the County Attorney’s Office and indicated that it is a fairly basic, factual pattern of what happened on the issue and outlines the litigation that has occurred; whereupon, Ms. Meiller-Cook agreed to provide the term limits litigation summary to all the members.

Clerk Burke opined that the term limit issue has moved away from the legal arena and has become a public policy decision, pointing out that the most recent Supreme Court decision in which the Court receded from a previous opinion provides clear guidance that the CRC can act, if it so desires. He provided historical information, noting that when the term limits issue was placed on the ballot here, it was due to a citizen petition; whereupon, he recommended that the members base their decisions, as the Founding Fathers did, on whether having term limits is the best thing for good government and is the right thing to do.

#### RECOMMENDATIONS LIST

Ms. Meiller-Cook reviewed the two recommendations the CRC has approved: Campaign Signage and Electronic Comment Cards; whereupon, Mr. Sewell suggested that the CRC recommend that the BCC provide an interface between the BCC website and the Clerk’s website to facilitate public awareness of the comment card option.

Chairman Olliver related that he and the facilitator are preparing a list of suggestions brought forth by either the public or the members that do not rise to the level of a Charter amendment but are good ideas that should not be lost; that it will be a running list and will be sent to the

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members in advance of each meeting; that during the course of the meetings, the items will be modified and new ones added; and that everyone is encouraged to provide input.

### CHARTER AMENDMENT TOPICS

#### MOVE COUNTY SEAT (#26) - REMOVED FROM LIST

Attorney Vose advised that the Florida Constitution has a provision that says County Seats can only be moved pursuant to General Law; that Pinellas County was created in 1911 by a Special Act that named the Town of Clearwater as the County Seat; and that apparently people were looking to move it almost immediately, as the provision in the Florida Constitution and the General Law were immediately challenged, and the case was heard in 1912. He indicated that there is a section of the Florida Statutes, Chapter 138, dating from the turn of the last Century, providing direction on how to move the County Seat, which is, basically: (1) a petition drive is initiated, (2) the petition must be approved by one third of the voters in the county, and (3) after the petition is approved, an election is held to decide where the County Seat will be located.

Clerk Burke moved, seconded by Mr. Sewell and carried unanimously, that the item be removed from the list of topics.

Chairman Olliver noted that the vote had been taken before the citizens had a chance to comment; and that he would ask for another vote after they had been heard.

Upon the Chairman's call for citizens wishing to be heard, Mr. Geddis appeared and expressed his concern; whereupon, in response to his query, Attorney Vose advised that the only other way to move the County Seat would be to amend the Florida Constitution.

Upon call for the vote, the motion carried unanimously.

#### GRIEVANCES (#24) – REMOVED FROM LIST

Marcus Harrison, Palm Harbor (unincorporated area), referred to his memorandum to the CRC dated January 8, 2016, a copy of which has been filed and made a part of the record, and proposed that an amendment be added to the topics list that would hold elected officials accountable, approve a grievance process for citizens wishing to bring a justifiable lawsuit against the County, and mandate that the County pay all legal fees if a case is filed; whereupon, he requested that the members not try to justify previous actions or cases, but determine if there is any room for improvement and how that could best be accomplished.

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Mr. Harrison indicated that the process should include a vetting of the matter by a judge or other disinterested party to determine the merit of the lawsuit and whether the County has properly responded or responded in a way that meets the needs of the citizens. He cited several instances where such a grievance process would have given the citizenry a proper voice, including:

1. The term limits issue, stating that a ballot initiative approved overwhelmingly by the citizens was challenged by the term-limited elected officials, using the citizens' tax money against them, and a private citizen spent over \$70,000 of his own money challenging the decision. He argued that a private citizen should not have to pay attorney fees to fight for the rights of the voters; and that a procedure should be in place allowing public funds to be used for such a purpose.
2. The renegotiation of the Interlocal Agreement between the County and the Public Library Cooperative, stating that negotiations started in the sunshine but quickly moved into the shadows, denying citizens the opportunity to comment and resulting in the County Administrator appointing members to the Cooperative Board, which is prohibited by the County Charter.
3. The stormwater fee for the unincorporated area.

In response to a request by Attorney Vose that he outline the basics of the proposed Charter amendment, Mr. Harrison summarized his proposal, stating that when a grievance is found through a formal procedure to have merit, and is ultimately not resolved and litigation occurs, the County would be responsible for all attorney fees.

Pointing out that he supports the intent of the proposed amendment, which is to make government more responsive to the people, and understands the frustration of the citizens, Clerk Burke stated that as the financial steward of Pinellas County, he recognizes the need to protect taxpayers from frivolous lawsuits, and is concerned the proposal could be exploited by unscrupulous attorneys. He discussed the open records law, indicating that certain attorneys throughout the state are purposely baiting government employees to violate the law with the sole intent of collecting statutory fees. He suggested that the State Attorney's Office, which is funded by the taxpayers, might be the proper venue if the citizens think the Sunshine Law was violated in the Library Cooperative matter; whereupon, Attorney Vose confirmed that the primary mechanism of enforcement of the Sunshine Law is through the criminal justice system, even though it has civil components.

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During discussion, Mr. Steck suggested that the County could use an ombudsman, as Scandinavian countries do, or perhaps a review committee, to look into an issue and try to solve the problem for the citizens without their having to take the matter to court.

Clerk Burke related that his office performs some of the same duties that an ombudsman would, and discussed checks and balances that already exist in County government, noting that as the Comptroller and Internal Auditor, a major component of his responsibility is to determine that every dollar spent by the County meets the “public purpose” test; whereupon, pointing out that an ombudsman reports to no one, he raised the question of to whom a review committee would report, suggesting that reporting to the County Administrator would defeat the purpose and reporting to the BCC could prove awkward in some instances.

Mr. Pressman agreed that the proposed Charter amendment is well intentioned, but stated that it could create mayhem in the County, as every issue could potentially be challenged.

Stating that a motion is in order if there is no further discussion, Chairman Olliver outlined three options for the Commission to consider:

1. Move forward with potential language for a Charter amendment.
2. Move the issue to the white paper, with language related to the checks and balances of government, perhaps not as strong as calling for an ombudsman.
3. Remove the item from further consideration.

Thereupon, Mr. Pressman moved, seconded by Mr. Harless, that the Commission not move forward with the issue and the topic be removed from the list.

In response to the Chairman’s call for further discussion, Ms. Caron indicated that she would like the CRC to provide citizens with some type of resource to get further information or advise them of the next steps to take to find a solution. In response to the Chairman’s request that he address Ms. Caron’s proposal, Clerk Burke discussed the fraud abuse hotline, and indicated that if a complaint comes in involving fraud within the County, it is investigated, but the stormwater fee is a policy issue and his office does not analyze such matters, as the County Commissioners are elected to set policy; whereupon, Mr. Pressman commented that he would prefer to bring a grievance to a Board of seven people elected by the citizens than to an administrative ombudsman.

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In response to query by Mr. Sewell, Attorney Vose indicated that it would concern him to address fees in the Charter, as it would build in a partial waiver of sovereign immunity, which could have constitutional issues.

Mr. Steck commented that the proposed Charter amendment has pluses and minuses, in that it would be subject to abuse that could clog the system, yet would provide a needed mechanism for citizens to deal with their concerns.

In response to the Chairman's call for citizens wishing to be heard, Freddy Faro appeared and expressed support for Mr. Steck's suggestion to create a review board.

Mr. Harrison appeared and expressed appreciation for the change in policy that provides him an opportunity for rebuttal. He stated that when egregious situations arise, such as the term limits issue where the Constitutional Officers challenged a referendum that the voters had approved, there should be a process to allow the citizens an equal opportunity to challenge without having to pay out of pocket. He observed that, like the CRC members, he does not want his tax money being used to fund a process that would allow frivolous lawsuits or cost County Government an exorbitant amount of money, but does want a more friendly government.

Mr. Geddis appeared and expressed concern about the meaning and use of the word "citizen" in the proposal; whereupon, Mr. Harrison indicated that he intended the amendment to be all inclusive, and Chairman Olliver agreed that language is important.

Upon call for the vote, the motion carried 10 to 1, with Mr. Steck dissenting.

In response to query by the Chairman, Mr. Steck related that, notwithstanding Clerk Burke's efforts and since other departments might not be as responsive, he would prefer to have a mechanism in place to assist citizens with verified grievances; but that he accepts the decision of the Commission.

EXCEPTION TO CODE ON NON-CONFORMING PROPERTIES (#25) - DEFERRED

Mr. Steck indicated that a citizen who is a Realtor requested that he present a proposed Charter amendment regarding non-conforming properties. He referred to a chart from a 2012 County report, and indicated that it shows that out of thousands of pieces of property in the unincorporated areas of Pinellas County, only 360 do not meet the current Code; and that the proposed amendment would provide for a mechanism to allow grandfathered properties with structures that are destroyed to have the structures rebuilt as they stood; whereupon, he observed

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that the study only dealt with properties in the unincorporated areas of the county and he is unaware whether an amendment would affect the cities and trigger the dual vote requirement.

Mayor Bradbury confirmed that the proposed amendment would affect the cities, and citing an example in the City of Pinellas Park, explained how the City handles such properties.

In response to a request by Clerk Burke that he share his expertise, Mr. Pressman indicated that the non-conforming element would affect each city as well as the County; that each jurisdiction handles the problem differently; that not only are there non-conforming structures, there are non-conforming pieces of land and non-conforming uses; that typically a non-conforming property is unsafe, either structurally, electrically, or in terms of the flood plain level; that in most cases, the owner is aware of the non-conformance issue when he buys the property; and that a percentage-of-destruction element might be used for structures, but even that would be difficult; whereupon, he advised that it would be very difficult to address all the issues in a blanket Charter element.

In response to queries by the members, Attorney Vose indicated that this would be a local issue and not regulated by the state; and that a number of County Charters address Comprehensive Plan issues, usually to curb unwanted growth, but he is not aware of any that delve into particulars such as the Zoning Code and non-conforming properties.

Chairman Olliver indicated that a motion is in order; whereupon, Mr. Pressman suggested that the item be deferred and the citizen who offered the idea be asked to address the Commission, and Ms. Meiller-Cook suggested that the Public Input Form be used.

Thereupon, Chairman Olliver directed that the item be deferred to a future meeting, and no objections were noted.

#### SELECTION OF CRC MEMBERS (#4) SELECTION PROCESS USED BY THE BCC MOVED FORWARD

Chairman Olliver summarized the discussion and action taken at the last meeting, indicating that the topic had been divided into two parts:

1. The makeup of the Charter Review Commission

The CRC agreed that the makeup of the CRC would remain nine citizens and four elected officials, and that no recommendation would be made.

2. The selection of the CRC members by the BCC

The CRC agreed that the members should be named by the BCC, but Mr. Shulman and Dr. Sewell led a discussion about having a greater, broader representation of the nominees, and the CRC agreed to revisit the item to determine how to craft a recommendation that would include broader representation.

The members confirmed the Chairman's summary of what was decided at the previous meeting; whereupon, he opened discussion on the selection of the members.

Mr. Shulman indicated that the members had discussed, where applicable, asking the County Commissioners to select the representatives to the CRC from the geographic districts that already exist so there would be equal representation around the county, realizing that a problem would exist if no one in a district would agree to serve on the CRC, and Mr. Sewell concurred. Chairman Olliver clarified that the suggestion is that the Commissioners choose someone from the district from which they are elected, and the at-large nominees could be from any area, and in response to his query, Attorney Vose advised that the recommendation would be legally sound.

Mr. Shulman moved, seconded by Mr. Sewell, that the Charter be amended to require selection of members of the CRC to be representative of the entire county, specifically the individual districts that the Commissioners represent.

During discussion and in response to the concerns of Clerk Burke, Mr. Shulman clarified that the BCC would continue to vote on the nominations as a body, as he would be reluctant to remove their veto power; and that the language would be that the BCC members would nominate someone from their district, including the two at-large members, subject to approval by the entire BCC. Attorney Vose pointed out that the CRC would be building the nomination process officially into the Charter, which is permissible; and discussion ensued regarding the makeup of this and previous CRCs. Mr. Shulman indicated that while it is appreciated that the current County Commission appointed a diverse CRC, requiring future County Commissions to do the same would be an added protection going forward.

In response to the Chairman's call for citizens wishing to be heard, the following individuals appeared and expressed their concerns:

Barbara Haselden, St. Petersburg

Opined that the CRC has become another arm of the County Commission when it should serve as a check on its power, and proposed drawing names of people who have expressed interest in

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serving; whereupon, in response to queries by Mr. Pressman and Mayor Bradbury, she clarified that she does favor using geographic lines, but would prefer that the BCC not make the selection.

Marcus Harrison, Palm Harbor

Agreed with Ms. Haselden that selection should be by lottery, and suggested that the two at-large members be chosen to represent certain groups, such as veterans or the handicapped, again by lottery.

David Ballard Geddis, Jr., Palm Harbor

Opined that people representing their fiscal interest rather than public interest has affected the development of the county.

Upon the Chairman's call for further discussion and in response to query by Ms. Bell, Mr. Pressman clarified that the motion is based on geographic boundaries so the members would be appointed by district. Mr. Shulman indicated that the motion is to advance the question to Attorney Vose to draft language requiring the seven members to be chosen from the County Commissioners' geographic districts, as well as the two separate at-large selections.

Upon call for the vote, the motion carried by a vote of 9 to 2, with Messrs. Harless and Bardine dissenting.

Mr. Steck suggested that the term "nominate" be used in the referendum language, and the Chairman indicated that the suggestion would be accepted as a friendly post-amendment, and no objections were noted.

#### NEW TOPICS FROM CRC MEMBERS

#### Change Elections of All Municipal Officers, City Councils, City Commissioners, and Mayors to Partisan Elections on a Countywide Basis – Removed from Consideration

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Ms. Meiller-Cook presented the topic. In response to queries by the Chairman and the members, Attorney Vose advised that legally the County Charter could bring about some changes, but it is ultimately a policy decision, and the members must decide whether they want to become involved in municipal elections; and that the proposed amendment would trigger the dual vote requirement, as well as a number of provisions under the Florida Election Law, and discussion ensued.

Mr. Sewell moved, seconded by Mr. Shulman, that the topic be removed from consideration.

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No one appeared in response to the Chairman's call for citizens wishing to be heard.

Upon call for the vote, the motion carried unanimously.

Charter Amendment re Client Relationship between the County Attorney and the Constitutional Officers (Clerk Burke) - Added as Topic for Discussion

Clerk Burke stated that the Charter specifies that the County Attorney represents not only the Board of County Commissioners, but the Constitutional Officers; that the Constitutional Officers have no say in the selection, review, or termination of the County Attorney; that a conflict of interest clause is built into the present Charter and could be accommodated; and that he would like the issue to be included as a topic for discussion and for the CRC attorney to advise as to the legalities involved; whereupon, he moved, seconded by Mr. Sewell, that the client relationship between the County Attorney and the Constitutional Officers be added to the list of topics for consideration, and discussion ensued.

Attorney Vose advised that the proposal would be within the realm of what could be specified in the Charter, and cautioned that the process would need to conform to the Sunshine Law.

Noting a consensus to include the proposal as a topic for discussion, Chairman Olliver requested that Clerk Burke set forth the specifics of the proposal and bring the topic forward at the first meeting in March, and no objections were noted.

Charter Amendment to Require Public Input from Citizens, Respondents, and Applicants re Procurements Above a Certain Monetary Level (Pressman) – Added as Topic for Discussion

Mr. Pressman stated that procurements amounting to millions or hundreds of millions of dollars are made by the County Commission without receiving public input from the citizens, respondents, or applicants; and proposed that an amendment be added to the Charter regarding procurements above a certain monetary level.

Attorney Vose confirmed with Mr. Pressman that his intent is to require an opportunity for public comment in any of the processes where such procurements are being discussed, evaluated, or heard; and indicated that under the Sunshine Law, there is a current exemption allowing cities and counties to have closed meetings with individual bid applicants for large bids if certain criteria are met, noting that some governments elect not to do so and do not allow lobbying of individual commissioners because it appears untoward. Clerk Burke indicated that once a bid is formerly advertised in Pinellas County, a "quiet period" begins and input by the public or applicants is closed until the item comes before the Commission.

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Pointing out that the County Commission representative is not present, Chairman Olliver stated that Mr. Pressman has moved, seconded by Mayor Bradbury, that a Charter amendment regarding procurement be added to the list of topics to be discussed; and that he thinks more research and a better determination of what is being proposed is needed. Ms. Caron suggested that the process for procurement might more properly be moved to the white paper; whereupon, Mr. Pressman stated that his proposal to regulate procurement concerns matters of tremendous impact, of taxpayer funds and monies, and County policies; and that the issue is whether or not there will be adequate public comment.

During discussion, Clerk Burke suggested that the attorney for the Purchasing Department be asked to provide input, noting that it is his understanding that only during the “Cone of Silence” can the Commissioners not be contacted; and that once the item comes to the Board for an actual vote, public input is allowed. Mr. Pressman stated that in the current process, the public and the Commissioners are not hearing both sides. Ms. Meiller-Cook stated that, in her experience, it is the bidders and the lobbyists who are prohibited from speaking with the soliciting agent and others, not the public, and Attorney Vose provided input regarding the distinction between a Cone of Silence/Blackout and Quasi-Judicial decisions.

Mr. Shulman called the question, and upon call for the vote, the call to cut off discussion carried unanimously.

Upon call for the vote, the motion to move the item forward as a topic for discussion carried unanimously; whereupon, Chairman Olliver authorized Clerk Burke to contact the counsel for the Purchasing Department.

#### Scheduling Next Topics

Ms. Meiller-Cook reviewed the topics to be scheduled and suggested that the number of meetings be evaluated to see if any could be eliminated.

Mr. Harless shared what he intends to discuss when he presents the redistricting/representation topic; whereupon, in response to query by the Chairman, Attorney Vose related that his research has revealed that Pinellas County, with its two-tiered system, already has one of the more creative solutions to provide representation to everyone. He suggested that the best way to generate ideas for improvement in the unincorporated areas would be to vet it as a group and requested further direction.

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Thereupon, Chairman Olliver stated that the term limit discussion would be held at the next meeting, and the dates and locations of the two public hearings decided; and that Messrs. Harless and Shulman would bring forward specific recommendations in March regarding the redistricting/representation issue. He expressed regret that Representative Ahern, Commission Long, and Mary Scott Hardwick could not attend today's meeting due to legislative activity in Tallahassee, and in response to the members' request that Commissioner Long be in attendance when the redistricting/representation issue is discussed, suggested that the members decide at the next meeting whether to cancel the first meeting in March, as the Legislators would still be in session.

REVIEW OF ACTION ITEMS – Not Addressed

ADJOURNMENT

Upon motion by Mr. Harless, seconded by Mr. Sewell and carried unanimously, the meeting was adjourned at 5:56 P.M.