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**OF BOARD OF COUNTY COMMISSIONERS**  
**MARCH 12, 2007**

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**THE BOARD OF COUNTY COMMISSIONERS**  
**CHARTER GOVERNMENT PUBLIC WORKSHOP**  
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The Board of County Commissioners of Indian River County, Florida, held a Public Workshop at the County Commission Chambers, 1840 25<sup>th</sup> Street, Vero Beach, Florida, on Monday, March 12, 2007, at 9:00 a.m. The purpose of the workshop was for a presentation on Charter Government by Kurt Spitzer, from Kurt Spitzer & Associates, Inc. Present were Chairman Gary C. Wheeler, Vice Chair Sandra L. Bowden, Commissioners Wesley S. Davis, Joseph E. Flescher, and Peter D. O'Bryan, Also present were County Administrator Joseph Baird, County Attorney William G. Collins II, and Deputy Clerk Maria I. Suesz.

**1. CALL TO ORDER**

Chairman Wheeler called the meeting to order at 9:00 a.m.

**2. INVOCATION**

Commissioner Wesley S. Davis delivered the Invocation.

**3. PLEDGE OF ALLEGIANCE**

Commissioner Peter D. O'Bryan led the Pledge of Allegiance to the Flag.

#### **4. PRESENTATION ON CHARTER GOVERNMENT IN FLORIDA**

##### **4.A. KURT SPITZER, KURT SPITZER & ASSOCIATES, INC. FIRST DRAFT OF THE HOME RULE CHARTER – FOR USE AS A DISCUSSION GUIDE**

Chairman Wheeler introduced Mr. Kurt Spitzer and announced he would open the meeting for input from the public after the presentation.

**Kurt Spitzer**, Kurt Spitzer & Associates, Inc. presented a Charter Government Overview using a slide presentation (copy on file). He spoke of Dillon's Rule which is what local governments operated under prior to 1968; it was replaced by Home Rule. Out of the 67 Counties in Florida, 19 have adopted Charters. He felt it was important to remember that a Charter is adopted, amended or repealed by the voters in a County. He discussed example policy areas for Commissioners, and Constitutional Officers, and defined the differences between non-charter government and charter government ordinances. In terms of Home Rule, both non charter counties and cities have broad powers of local self government, and he stated in a Charter County the citizens are authorized to set standards of power on a permanent basis. The options for sending proposals to voters is by a Special Act, creating a Charter Study Commission which takes 18 months, or by Ordinance of the Board.

He provided the first draft of the Home Rule Charter for use as a discussion guide (copy on file), and reviewed each Article in detail. In Article I he defined the nature of a dual vote, which was discussed in length at the previous workshop. Under Article II, he spoke about the options of the number of commissioners elected, residency, partisan elections, compensation, and redistricting.

Chairman Wheeler noted one change in the draft that would move the organizational meeting from the first meeting in January to the first meeting after the elections in November.

**Mr. Spitzer** spoke of Article 3 that related to the Administrative Branch, County Administrator qualifications, terms of employment, powers and duties. Article 4 refers to Administrative Departments. He commented that the Article did not make reference to the Executive Aide, but advised the Board that they could add it. He discussed Article 5 that referred to County Officers, and Article 6 that related to powers reserved to the people, initiative and recall, commenting there are numerous alternatives to this system that the Board could consider. One alternative is not authorizing a petition process for proposing ordinances. He related that many Charters have this procedure in it, but is very rarely used. Article 7 deals with the transition from non-charter government to charter government, Charter Amendment, and the Charter Review Commission. He also pointed out that there is a repeal of the Charter that requires two public hearings, and they must be separated by ten days.

**4.B. KURT SPITZER, KURT SPITZER & ASSOCIATES, INC. ALTERNATIVE  
LANGUAGE TO CONSIDER – PLANNING AND GROWTH MANAGEMENT**

Mr. Spitzer discussed alternative language for the Board’s consideration (copy on file):

1. Voter approval required for Approval of the Comprehensive Land Use plan Amendment.
2. Unanimous County Commission Approval Required for Approval of Comprehensive Land Use Plan, or Comprehensive Land Use Plan Amendments affecting five or fewer parcels.
3. Rural Boundary and Rural area.

**5. BOARD DISCUSSION/COMMENTS**

**Mr. Spitzer** responded to questions from the Board regarding changes to land use designations of single parcels, less than five parcels, write-in candidates requirement of residency in their District, the specifications of the Executive Aide, voter initiative amendments and as suggested by Commission O'Bryan, changing voter initiatives to require 60% of the voters.

Chairman Wheeler opened the meeting for public input.

**Bob Johnson**, Coral Wind Subdivision, wondered if some consideration should be given to the County fiscal year versus the State fiscal year.

**Ital Veron**, 280 Pepper Tree Drive, commented on the definition of a parcel, saying that it is referenced, and if it has thousands of acres, he would give great thought to that.

**John Williams**, 1535 Smugglers Cove, was concerned about Chairman Wheeler's suggestion of requiring 12% of the voters to petition through the initiative process, and he thought that was very onerous. To ask 51% of the voters to approve the charter, and 60% for any changes he thought was hypocritical. He wanted to see it remain 50% plus. He urged the Board not to get lost in details.

Attorney Collins read the definition of parcel of lands as defined in the Land Development Act, remarking that it would be up to the owner to determine whether their acreage was a parcel (unit) or not.

**Mayor Dunlap**, Town of Orchid, thought they needed to have dual referendums, where the County and municipality votes when they are going to change an ordinance. He felt the Board needed to take a careful look at all the activity that has gone on in other Charter county governments. He said, most of them have started out as Charter Light, and they are not Light

now. He mentioned that the Board should consider not only 43<sup>rd</sup> Avenue, but also Indian River Boulevard. He was looking to the future, when none of the current five Commissioners would still be sitting at the dias.

Chairman Wheeler commented on his intentions to have a Charter Home Rule, and said he wanted to protect the land use that currently exists. He did not intend to take authority away from the cities. He was trying to move forward, and not backwards.

Chairman Wheeler called for a recess at 10:36 a.m. and reconvened the meeting at 10:48 a.m. with all members present.

**Mayor Tom Cadden**, Indian River Shores, addressed the draft under repeal (Section 7.4, dual referendum) in an effort to protect the municipalities. He thought it was important to include other Charter Amendments. He had language to that effect, and planned to provide it before the next workshop. He was trying to protect his Town, a small town with very few voters, against big amendments that could change the conditions of living in Indian River Shores.

Discussion ensued by the Commissioners regarding hypothetical situations. **Mr. Spitzer** tried to summarize the Board's ideas.

There was CONSENSUS to give the municipalities whatever additional authority or dual referendum needed to make sure their Home Rule powers were protected.

**Mr. Spitzer** stated marrying the motion with what was said earlier, they might have a threshold of a 60% vote to approve an amendment, plus, for it to be effective inside city limits it should be approved by the votes of the City too. Chairman Wheeler agreed with what Mayor Cadden was trying to accomplish.

**Bea Gardner**, Vero Beach was very concerned about the speediness of the process without input from the public. She found it difficult to understand the lack of attendance by the public at the workshop. She questioned the Board as to what point during this process were they going to do a whole review of their Comprehensive Plan. She wanted assurance that they were not going to vote on this until 2008.

Chairman Wheeler said he would like a minimum of three more workshops, one in the North County, one on the Beach, and one here in the Commission Office. He could not think of another single issue that had received more “print” over the last two years, and he disagreed with her comments. In response to comments made about the Comprehensive Plan, Chairman Wheeler responded that it is something the Board continuously works on at each Commission meeting.

Commissioner Bowden agreed with Bea Gardener regarding the speediness. She wanted to wait until the very last minute before making a decision, and wanted to ensure that the Municipalities have the opportunity to come together.

Commissioner Davis was concerned that they were moving in too many directions at the same time.

**Frank Waggle, 8060 142<sup>nd</sup> Street**, urged the Board to adopt “single member districts” in the Charter. He recommended that in an area where they have minority enclaves, with a countywide election the power of those enclaves is diminished.

Commissioner Wheeler and Commissioner Bowden disagreed with Mr. Waggle, and both of them expressed they would like to be looked at as representing the whole County, and

felt they sit there as a collegiate board. They pointed out that they hear from people who are not in their districts.

**Sal Neglia**, Sebastian City Council, asked for clarification of the dual vote and the annexation process. **Mr. Spitzer** explained that the change of intensity inside the Urban Service Area would not change the Comprehensive Plan process, unless it is annexed outside of the Urban Service Area. Commissioner Bowden was concerned about having a voter referendum change the Comprehensive Plan. To change the Comprehensive Plan, Mr. Spitzer defined the process by simple majority vote of the County Commission, majority plus one, or by referendum of the electors.

**Jeff Bass**, 1281 Indian Mountain Trail, Vero Beach, found the whole process contradictory. He remarked that this started two years ago when people were concerned about what was happening inside the Urban Service Area, yet they are attacking outside the Urban Service Area. This is growth management by referendum, not by planning. He thinks the Growth Management Act states that you need to have planning data and “tons” of analysis to change the Comprehensive Plan, and none of that is involved in a referendum government. It made sense to him that if they set a goal, they need to work for it. In his opinion, doing it by trying to regulate everything, was the wrong way to do it.

**John Higgs**, 45 Wax Myrtle Way, President of the Indian River Neighborhood Association (IRNA), handed out (copy on file) his ideas of what he thought should be contained in the Charter regarding land use inside and outside the Urban Service Area, and height restrictions. He liked having an interlocal agreement with the municipalities, and agreed that once they have what they want in place, it could only be changed (by dual referendum) as it affects a municipality by approval of the voters in that municipality. He felt they should make sure that Constitutional Officers have “bullet proof” protection from future Commissioners.



Discussion ensued and **Mr. Spitzer** provided information regarding “recall” of the Commissioners and Constitutional Officers. He commented that it was a tough test to meet, and matters of policy was not something that they could be recalled on.

**Mr. Higgs** continued reviewing the optional language (provided in the backup). The language in Section 1 “cannot be amended unless approved” was too broad and restrictive regarding the Comprehensive Plan. The five parcels he saw as a problem (Section 2). He suggested having unanimous approval, and not make references to Section 163.3167 so specific, and height restrictions should be included.

**Ben Bailey**, 941 Sand Fly Lane, felt Charter Government was “unnecessary.” It was his opinion that they are moving on a “fast track,” this has far reaching effects, and it was the wrong approach. He urged the Board to keep the County in its current form of government. He perceived there was a small group, the Indian River Neighborhood Association (IRNA) that was behind this move. He did not want any one group controlling the County, and he thought the Board needed to be cognizant of that. He reported that the 19 Charter government counties in Florida have some disastrous stories, and thought the Board needed to slow down.

**Nancy Offutt**, representing the Builders Association, spoke in opposition to Charter Government. She realized Mr. Higgs, and the IRNA had won in recent elections and she applauded them, but now she feels the County is looking at a Coup d’ etat, a change in government, and not just an election and new faces. She felt it was so presumptuous to think that Commissions after this should have their ability and their power of judgment in the vote taken away, and given to the people. In her opinion, this “Jeffersonian approach” is “hogwash” because the room was not filled, as it was at the beginning of the meeting. It is far easier for a small group with this specific agenda to mobilize, than it is to energize a distant majority, she said, and she thinks that is what has happened. She felt it is very important that land use, which affects the future of our County be determined by good planning. The IRNA has started an

initiative over growth issues that concerns all of us. She said the Builders Association does not want to push the Urban Service Boundary; they just want the opportunity the rest of the community has enjoyed all along, which is when a good project comes they can count on our representatives, with the input of staff's professional planners to be able to make decisions that are in the best interest for everyone. She told the Board to be very careful what they wished for.

**George Christopher**, 945 Painted Bunting Road, contradicted some comments made by Ms. Offutt, and spoke in defense of the IRNA. He wanted the Charter to include Commissioner residency establishment at time of qualifications, and have two or three-day meeting notice requirements. He thought the ordinance adoption by an initiative was excellent. He favored the dual vote for municipalities, and suggested amending Section 1.8. The five-parcel issue was troublesome, and he suggested the unanimous vote was one solution, or any change to the Comprehensive Plan must involve more than five parcels. He did not understand the paragraph on special provisions, and thought it was contradictory to Sections 1 and 2, because you can only change density or height by Comprehensive Plan changes that go to the voters. He did say that Mr. Spitzer was doing a great job.

There was a brief discussion regarding the time allowed to call a Special Call meeting.

**Bea Gardener** disputed the comments made by Chairman Wheeler, that the Charter government has been a discussion for the last two years. In her opinion, the public never heard that Charter Government was a means of keeping the Urban Service line in place until such time that the straw ballot was passed at last election. She challenged the Chairman to respond.

Chairman Wheeler responded that this has been an evolution that has gotten them to this point, saying, "they have tried other things, such as the "Village" town concept, that has not worked, and it has been a tug-of-war back and forth."

**Bea Gardner** did not think the approach to the public was the same. She commented that maybe we have to constantly be looking at our politicians and understand exactly what the referendum said to her. She did not believe the voters were looking to change the whole form of government, but just wanting to hold the Urban Service Line.

**Sue Joyce**, Orchid, questioned Section 1.8.1., paragraph (d) on rural boundary.

**Adriene Cuffe** pointed out that the vote needs to be in the hands of the people for the important matters and the everyday matters needed to be handled by the Commission.

**Jason Nunemaker**, City Manager of Fellsmere, felt compelled to point out that none of the issues that have plagued the County were created by the City of Fellsmere, and Charter Government would not do anything to alleviate those issues.

## **6. CONCLUDING REMARKS**

Commissioner Davis was concerned with the issue of residency. As a sitting Commissioner, he did not want to raise that barrier if someone challenged him running for office. It was his opinion that if the people have an idea that they want to bring before the Commission it should be 60% or by super majority votes.

*(Clerk's Note: Commissioner Bowden left the meeting at 11:15 a.m.)*

Chairman Wheeler explained that when they complete this process they have 90 days for the people to vote on it. If they disagree with certain things they could form a consensus to obtain some direction with the working draft.

Commissioner O'Bryan understood Commissioner Davis on the majority vote, and pointed out that until they implement the Charter they cannot require 60%, they need the majority vote. He commented on the Comprehensive Land Use Plan that has been in existence since 1990. He agreed with Ms. Offutt that all these requirements should go through the Comprehensive Plan. He felt the problem is when property is annexed it takes away their entire Comprehensive Plan and it is not effective on those lands, and by having a Charter they keep those lands subject to the Comprehensive Plan. He wished to accomplish that in the future those lands come under the Comprehensive Plan, remarking that this is the only type of system that will keep those lands under the Comprehensive Land Use Plan. He hoped that the Special Act goes through, and they would not need to continue down this path.

Commissioner Flescher thanked the viewing audience at home, and invited the public to bring a friend next time. He asked Mr. Spitzer if it has been his experience that they would see a whole different set of language regarding such a move whether it goes through or not. **Mr. Spitzer** hoped to get input and thought it would be helpful to take these changes, incorporate them into a new document, and then go out to the public and get comments from different parts of the County.

Commissioner Flescher thought they needed to focus on what the County is looking at and make it a more positive approach.

Chairman Wheeler wanted to see the following in the Charter:

1. Commission districts
2. Partisan elections
3. Commission Districts run "at Large" and be in the district to serve.
4. Exclude Constitutional Officers, set them aside in every aspect.

5. Under management and administration, to have administrator not approve, but have dialogue and conversation in the hiring of department heads, but it does not have to be approved by the Commission.

Attorney Collins commented that if they adopt the Charter by ordinance, the County Executive's powers provide for him to appoint department heads, but with the advice and consent of the Commission. Administrator Baird did not think it was a good idea, and he believed it would make the daily professional job very political. Commissioner Davis would love to find a way around that. Mr. Spitzer responded that he would work on those ideas.

Chairman Wheeler continued to list ideas he wanted to see in the Charter:

- Any change in the Charter would require a 60% majority vote
- To add or amend the Charter to get it on the ballot would require 12% of signed petitions
- Pages 26 and 27, Sections 1 and 2 be combined, and cleanup the language in Section 3
- Adopt Section 7.4 that gives a lot of support to the voters and takes a lot of strength away from the Commissioners

Discussion continued regarding the recall process. Mr. Spitzer explained that the first step in a petition is to get 5% of signed petitions, then you have to get 15% of signed petitions in the second process.

In response to Commissioner Davis' question, Mr. Spitzer responded what it would take to change or adopt ordinances that are applicable. It would require 8% in all Commission districts, presented to the Commission for discussion, and if it is not adopted, it goes to the voters and has to be approved by 50%, or 60% of the electors. Chairman Wheeler wanted to make it

difficult to change the Charter. He wanted a County-wide vote to be necessary to increase the height restriction.

There was a brief discussion between Chairman Wheeler and Commissioner Davis regarding setting a time frame and scheduling the future workshops accordingly. Chairman Wheeler was interested in seeing this placed on the ballot as a single item, in a Special Election, in October 2007. Commissioner O'Bryan suggested this would occur prior to October 2007.

**Mr. Spitzer** felt if they want to do something this fiscal year, it would have to be presented by late summer. Chairman Wheeler wanted three more workshops, on the Beach, in north County and south County. Commissioner O'Bryan suggested scheduling evening meetings.

The Chairman would place this on the agenda for the next BCC meeting.

## **7. ADJOURNMENT**

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

There being no further business, on Motion duly made, seconded and carried, the Board adjourned at 12:36 p.m.

ATTEST:

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Jeffrey K. Barton, Clerk

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Gary C. Wheeler, Chairman

Minutes Approved: \_\_\_\_\_

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